

**REGULAR MEETING
THE BOARD OF EDUCATION OF
YOUNGSTOWN CITY SCHOOL DISTRICT
YOUNGSTOWN, OHIO**

20 West Wood Street

October 22, 2013

The Youngstown Board of Education met in regular session at the I.L. Ward Building on October 22, 2013. President Richard Atkinson called the meeting to order at 5:32 p.m. The meeting opened with the Pledge of Allegiance followed by a moment of silence. Roll call was taken with the following board members in attendance:

Members present: Kimble, Mahone, Atkinson, Beachum, Haire-Ellis, Hanni
Members absent: Murphy

Board members discussed agenda items, and the caucus portion of the meeting ended at 6:10 p.m. The regular portion of the meeting was called to order at 6:15 p.m.

APPROVAL OF AGENDA

As the first item of business, Mr. Atkinson called for a motion approving the agenda. Ms. Haire-Ellis moved that the agenda be approved as presented. It was seconded by Ms. Hanni. Prior to approving the agenda, Ms. Haire-Ellis then moved that board members adjourn to recess for discussion of a personnel matter. Ms. Hanni seconded the motion, and on roll call vote the results were as follows:

Ayes: Kimble, Atkinson, Beachum, Haire-Ellis, Hanni
Nays: Mahone

The motion to recess was approved. The recess ended at 6:47 p.m. at which time Ms. Haire-Ellis moved to amend the agenda with the addition of Resolution 236-13. Mr. Beachum seconded the motion. On roll call vote the results were as follows:

Ayes: Kimble, Mahone, Atkinson, Beachum, Haire-Ellis, Hanni
Nays: None

Motion carried.

Following the roll call to amend the agenda with the addition of Resolution 236-13 and to remove Resolution No. 231-13 and Resolution No. 232-13 from the agenda the vote to approve the agenda as amended was as follows:

Ayes: Kimble, Mahone, Atkinson, Beachum, Haire-Ellis, Hanni
Nays: None

Motion carried, and the agenda was approved as amended.

APPROVAL OF MINUTES

Ms. Haire-Ellis moved, seconded by Mr. Beachum that the minutes of the regular board meetings of September 24, 2013 and October 18, 2013 along with the special meetings of September 26, 2013 and September 30, 2013 be approved as presented. On roll call vote the results were as follows:

Ayes: Kimble, Mahone, Atkinson, Beachum, Haire-Ellis, Hanni

Nays: None

Motion carried, and minutes were approved as presented.

COMMUNICATIONS/RECOGNITIONS

There were no communications or recognitions.

CITIZEN PARTICIPATION

Mr. Atkinson called for citizen participation. Dr. Martha Bruce, Adopt-A-School administrator presented information regarding the program. Michele Merkel, Junior Achievement of Mahoning Valley and John Schinker, Men's Garden Club also spoke on behalf of the Adopt-A-School Program.

BOARD COMMENTS

There were no comments at this time.

BOARD PRESIDENT'S REPORT

Mr. Atkinson had no report at this time.

FACILITIES REPORT

Harry Evans, chief of operations, had no report at this time.

TREASURER'S REPORT

James Reinhard, treasurer, had no report at this time.

SUPERINTENDENT'S REPORT

Dr. Hathorn, superintendent, had no report at this time.

COMMITTEE REPORTS

No committee reports were presented at this time.

NEW BUSINESS

CONSENT AGENDA

Ms. Haire-Ellis offered a motion to place Resolution No. 218-13 through Resolution No. 236-13 on a Consent Agenda. Ms. Hanni seconded the motion, and on roll call vote the results were as follows:

Ayes: Kimble, Mahone, Atkinson, Beachum, Haire-Ellis, Hanni

Nays: None

Motion carried.

Mr. Atkinson then entertained a motion to adopt the Consent Agenda. Ms. Haire-Ellis moved adoption of the Consent Agenda, seconded by Mr. Beachum which included Resolution No. 218-13 through Resolution No. 236-13 summarized as follows:

Ayes: Kimble, Mahone, Atkinson, Beachum, Haire-Ellis, Hanni

Nays: None

Motion carried.

**The Public Schools
Youngstown, Ohio
Office of the Treasurer**

RESOLUTION NO. 218-13

FIVE-YEAR FORECAST FISCAL YEAR 2014

WHEREAS, Ohio Revised Code requires that boards of education file five-year forecasts with the Department of Education on an annual basis; and

WHEREAS, five-year forecasts are mandated to be filed if the forecasts change in a material manner as to expenses, revenues or ending balances during the course of the year in which it is required to have been filed;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Education of Youngstown City School District approves the attached five-year forecast and approves it for filing with the Ohio Department of Education as required by law.

Ms. Haire-Ellis moved, seconded by Mr. Beachum that the foregoing resolution be adopted.

Ayes: Kimble, Mahone, Atkinson, Beachum, Haire-Ellis, Hanni

Nays: None

Motion carried.

10/22/13

**The Public Schools
Youngstown, Ohio
Office of the Treasurer**

RESOLUTION NO. 219-13

**RESOLUTION RENEWING ANNUAL MEMBERSHIP IN
NSBA's NATIONAL AFFILIATE MEMBERSHIP FOR 2014**

WHEREAS, Section 3313.87 of the Revised Code of Ohio provides that a Board of Education may join a school boards association and appropriate from the General Fund an amount sufficient to pay the dues required by the association; and

WHEREAS, the National School Boards Association (CUBE), Alexandria, Virginia, has submitted an invoice in the amount of \$8,250.00 for annual membership dues for the year 2014;

NOW, THEREFORE, BE IT RESOLVED, that the Youngstown Board of Education renews its membership in NSBA's National Affiliate Membership (CUBE) for 2014 and authorizes payment of the aforementioned annual membership dues.

Ms. Haire-Ellis moved, seconded by Mr. Beachum that the foregoing resolution be adopted.

Ayes: Kimble, Mahone, Atkinson, Beachum, Haire-Ellis, Hanni

Nays: None

Motion carried.

10/22/13

**The Public Schools
Youngstown, Ohio
Office of the Treasurer**

RESOLUTION NO. 220-13

**RESOLUTION TO ADOPT POLICY ON
ANTI-HARASSMENT
(ADMINISTRATION)**

WHEREAS, the Board of Education of the Youngstown City School District is committed to maintaining an education and work environment which is free from all forms of unlawful harassment, including sexual harassment; and

WHEREAS, the Superintendent has developed and recommended to the Board adoption of the attached policy entitled "Anti-Harassment".

NOW, THEREFORE, BE IT RESOLVED, by the Board of Education of the Youngstown City School District that the policy entitled "Anti-Harassment," recommended by the Superintendent, a copy of which is attached hereto and incorporated herein by this reference, is hereby ratified, approved and adopted by this Board.

Ms. Haire-Ellis moved, seconded by Mr. Beachum that the foregoing resolution be adopted.

Ayes: Kimble, Mahone, Atkinson, Beachum, Haire-Ellis, Hanni

Nays: None

Motion carried.

10/22/13

ANTI-HARASSMENT

General Policy Statement

It is the policy of the Board of Education to maintain an education and work environment that is free from all forms of unlawful harassment, including sexual harassment. This commitment applies to all School District operations, programs, and activities. All students, administrators, teachers, staff, and all other school personnel share responsibility for avoiding, discouraging, and reporting any form of unlawful harassment. This policy applies to unlawful conduct occurring on school property, or at another location if such conduct occurs during an activity sponsored by the Board.

The Board will vigorously enforce its prohibition against discriminatory harassment based on race, color, national origin, sex (including sexual orientation and transgender identity), disability, age, religion, ancestry, or genetic information (collectively, "Protected Classes") that are protected by Federal civil rights laws (hereinafter referred to as "unlawful harassment"), and encourages those within the School District community as well as third parties, who feel aggrieved to seek assistance to rectify such problems. The Board will investigate all allegations of harassment and in those cases where unlawful harassment is substantiated, the Board will take immediate steps to end the harassment, prevent its reoccurrence, and remedy its effects. Individuals who are found to have engaged in unlawful harassment will be subject to appropriate disciplinary action.

For purposes of this policy, "School District community" means students, administrators, and professional and classified staff, as well as Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

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

Other Violations of the Anti-Harassment Policy

The Board will also take immediate steps to impose disciplinary action on individuals engaging in any of the following prohibited acts:

- A. Retaliating against a person who has made a report or filed a complaint alleging unlawful harassment, or who has participated as a witness in a harassment investigation.
- B. Filing a malicious or knowingly false report or complaint of unlawful harassment.
- C. Disregarding, failing to investigate adequately, or delaying investigation of allegations of harassment, when responsibility for reporting and/or investigating unlawful harassment charges comprises part of one's supervisory duties.

Definitions

Bullying

Bullying rises to the level of unlawful harassment when one or more persons systematically and chronically inflict physical hurt or psychological distress on one (1) or more students or employees and that bullying is based upon one (1) or more Protected Classes, that is, characteristics that are protected by Federal civil rights laws. It is defined as any unwanted and repeated written, verbal, or physical behavior, including any threatening, insulting, or dehumanizing gesture, by an adult or student, that is severe or pervasive enough to create an intimidating, hostile, or offensive educational or work environment; cause discomfort or humiliation; or unreasonably interfere with the individual's school or work performance or participation; and may involve:

- A. teasing;
- B. threats;
- C. intimidation;
- D. stalking;
- E. cyberstalking;
- F. cyberbullying;

- G. physical violence;
- H. theft;
- I. sexual, religious, or racial harassment;
- J. public humiliation; or
- K. destruction of property.

"Harassment" means any threatening, insulting, or dehumanizing gesture, use of technology, or written, verbal or physical conduct directed against a student or school employee that:

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

Sexual Harassment

Pursuant to Title VII of the Civil Rights Act of 1964 and Title IX of the Educational Amendments of 1972, "sexual harassment" is defined as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when:

- A. Submission to such conduct is made either implicitly or explicitly a term or condition of an individual's employment, or status in a class, educational program, or activity.
- B. Submission or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individual.

- C. Such conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity.

Sexual harassment may involve the behavior of a person of either gender against a person of the same or opposite gender.

Prohibited acts that constitute sexual harassment may take a variety of forms. Examples of the kinds of conduct that may constitute sexual harassment include, but are not limited to:

- A. Unwelcome sexual propositions, invitations, solicitations, and flirtations.
- B. Unwanted physical and/or sexual contact.
- C. Threats or insinuations that a person's employment, wages, academic grade, promotion, classroom work or assignments, academic status, participation in athletics or extra-curricular programs or events, or other conditions of employment or education may be adversely affected by not submitting to sexual advances.
- D. Unwelcome verbal expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, jokes or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene telephone calls.
- E. Sexually suggestive objects, pictures, videotapes, audio recordings or literature, placed in the work or educational environment, which may embarrass or offend individuals.
- F. Unwelcome and inappropriate touching, patting, or pinching; obscene gestures.
- G. A pattern of conduct, which can be subtle in nature, that has sexual overtones and is intended to create or has the effect of creating discomfort and/or humiliation to another.

- H. Remarks speculating about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history.
- I. In the context of employees, consensual sexual relationships where such relationship leads to favoritism of a subordinate employee with whom the superior is sexually involved and where such favoritism adversely affects other employees or otherwise creates a hostile work environment.
- J. Inappropriate boundary invasions by a District employee or other adult member of the School District community into a student's personal space and personal life.
- K. Verbal, nonverbal or physical aggression, intimidation, or hostility based on sex or sex-stereotyping that does not involve conduct of a sexual nature.

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

NOTE: Sexual conduct/relationships with students by District employees or any other adult member of the School District community is prohibited, and any teacher, administrator, coach, or other school authority who engages in sexual conduct with a student may also be guilty of the criminal charge of "sexual battery" as set forth in Ohio Revised Code 2907.03. The issue of consent is irrelevant in regard to such criminal charge and/or with respect to the application of this policy to District employees or other adult members of the School District community.

Race/Color Harassment

Prohibited racial harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's race or color and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's race or color, such as racial slurs, nicknames implying stereotypes, epithets, and/or negative references relative to racial customs.

Religious (Creed) Harassment

Prohibited religious harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's religion or creed and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's religious tradition, clothing, or surnames, and/or involves religious slurs.

National Origin/Ancestry Harassment

Prohibited national origin/ancestry harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's national origin or ancestry and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's national origin or ancestry, such as negative comments regarding customs, manner of speaking, language, surnames, or ethnic slurs.

Disability Harassment

Prohibited disability harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's disability and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's disabling condition, such as negative comments about speech patterns, movement, physical impairments or defects/appearances, or the like. Such harassment may further occur where conduct is directed at or pertains to a person's genetic information.

Reports and Complaints of Harassing Conduct

Members of the School District community, which includes all staff, and third parties are encouraged to promptly report incidents of harassing conduct to an administrator, supervisor or other School District official so that the Board may address the conduct before it becomes severe, pervasive, or persistent. Any administrator, supervisor, or other District official who receives such a complaint shall file it with the District's Anti-Harassment Compliance Officer at his/her first convenience.

Members of the School District community or third parties who believe they have been unlawfully harassed by another member of the School District community or a third party are entitled to utilize the Board's complaint process that is set forth below. Initiating a complaint, whether formally or informally, will not adversely affect the complaining individual's employment or participation in educational or extra-curricular programs. While there are no time limits for initiating complaints of harassment under this policy, individuals should make every effort to file a complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available.

If, during an investigation of alleged bullying, aggressive behavior and/or harassment in accordance with Policy 5517.01 – Bullying and Other Forms of Aggressive Behavior, the Principal believes that the reported misconduct may have created a hostile work environment and may have constituted unlawful discriminatory harassment based on a Protected Class, the Principal shall report the act of bullying, aggressive behavior and/or harassment to one of the Anti-Harassment Compliance Officers who shall investigate the allegation in accordance with this policy. While the Compliance Officer investigates the allegation, the Principal shall suspend his/her 5517.01 investigation to await the Compliance Officer's written report. The Compliance Officer shall keep the Principal informed of the status of the 1662 investigation and provide him/her with a copy of the resulting written report.

Anti-Harassment Compliance Officers

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

Executive Director of Special Education
Youngstown Board of Education
20 West Wood Street
P.O. Box 550
Youngstown, Ohio 44501-0550
330-744-6965
330-744-8869 (Fax No.)

Assistant Superintendent of Human Resources
Youngstown Board of Education
20 West Wood Street
P.O. Box 550
Youngstown, Ohio 44501-0550
330-744-6925
330-744-5295 (Fax No.)

The names, titles, and contact information of these individuals will be published annually in the parent and staff handbooks, in the School District Annual Report to the public, on the School District's web site, and/or are available upon request from the Superintendent's Office.

The Compliance Officers will be available during regular school/work hours to discuss concerns related to unlawful harassment, to assist students, other members of the District community, and third parties who seek support or advice when informing another individual about "unwelcome" conduct, or to intercede informally on behalf of the individual in those instances where concerns have not resulted in the filing of a formal complaint and where all parties are in agreement to participate in an informal process.

Compliance Officers shall accept complaints of unlawful harassment directly from any member of the School District community or a visitor to the District, or receive complaints that are initially filed with a school building administrator. Upon receipt of a complaint either directly or through a school building administrator, a Compliance Officer will begin either an informal or formal process (depending on the request of the person alleging the harassment or the nature of the alleged harassment), or the Compliance Officer will designate a specific individual to conduct such a process. In the case of a formal complaint, the Compliance Officer will prepare recommendations for the Superintendent or will oversee the preparation of such recommendations by a designee. All members of the School District community must report incidents of harassment that are reported to them to the Compliance Officer within two (2) business days of learning of the incident.

Any Board employee who directly observes unlawful harassment of a student is obligated, in accordance with this policy, to report such observations to one of the Compliance Officers within two (2) business days. Additionally, any Board employee who observes an act of unlawful harassment is expected to intervene to stop the harassment, unless circumstances make such an intervention dangerous, in which case the staff member should immediately notify other Board employees and/or local law enforcement officials, as necessary, to stop the harassment. Thereafter, the Compliance Officer or designee must contact the student, if age eighteen (18) or older, or the student's parents if under the age eighteen (18), within two (2) business days to advise s/he/them of the Board's intent to investigate the alleged misconduct, including the obligation of the Compliance Officer or designee to conduct an investigation following all the procedures outlined for a formal complaint.

Investigation and Complaint Procedure (See Form 1662 F1)

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

Due to the sensitivity surrounding complaints of unlawful harassment or retaliation, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs while the facts are known and potential witnesses are available. Once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within fifteen (15) business days of the complaint being received).

The informal and formal procedures set forth below are not intended to interfere with the rights of any individual to pursue a complaint of unlawful harassment or retaliation with the United States Department of Education Office for Civil Rights, the Ohio Civil Rights Commission (“OCRC”) or Equal Employment Opportunity Commission (“EEOC”).

Informal Complaint Procedure

The goal of the informal complaint procedure is to stop inappropriate behavior and to investigate and facilitate resolution through an informal means, if possible. The informal complaint procedure is provided as a less formal option for a student, other member of the School District community, or third party who believes s/he has been unlawfully harassed or retaliated against. This informal procedure is not required as a precursor to the filing of a formal complaint and will only be utilized where the parties (alleged target of harassment and alleged harasser(s)) agree to participate in such process.

Employees, other members of the School District community, or third parties who believe that they have been unlawfully harassed or retaliated against may proceed immediately to the formal complaint process and individuals who seek resolution through the informal procedure may request that the informal process be terminated at any time to move to the formal complaint process.

However, all complaints of harassment involving a District employee, any other adult member of the School District community, or a third party against a student will be formally investigated. Similarly, any allegations of sexual violence will be formally investigated.

As an initial course of action, if an individual feels that s/he is being unlawfully harassed and s/he is able and feels safe doing so, the individual should tell or otherwise inform the harasser that the conduct is unwelcome and must stop. Such direct communication should not be utilized in circumstances involving sexual violence. The complaining individual should address the allegedly harassing conduct as soon after it occurs as possible. The Compliance Officers are available to support and counsel individuals when taking this initial step or to intervene on behalf of the individual if requested to do so. An individual who is uncomfortable or unwilling to inform the harasser of his/her complaint is not prohibited from otherwise filing an informal or a formal complaint. In addition, with regard to certain types of unlawful harassment, such as sexual harassment, the Compliance Officer may advise against the use of the informal complaint process.

An individual who believes s/he has been unlawfully harassed may make an informal complaint, either orally or in writing: (1) to a teacher, other employee, or building administrator; (2) directly to one of the Compliance Officers; and/or (3) to the Superintendent or other District-level employee.

All informal complaints must be reported to one of the Compliance Officers who will either facilitate an informal resolution as described below on his/her own, or appoint another individual to facilitate an informal resolution.

The School District's informal complaint procedure is designed to provide employees, other members of the School District community, or third parties who believe they are being unlawfully harassed with a range of options designed to bring about a resolution of their concerns. Depending upon the nature of the complaint and the wishes of the individual claiming unlawful harassment, informal resolution may involve, but not be limited to, one or more of the following:

- A. Advising the individual about how to communicate the unwelcome nature of the behavior to the alleged harasser.
- B. Distributing a copy of the anti-harassment policy as a reminder to the individuals in the school building or office where the individual whose behavior is being questioned works or attends.
- C. If both parties agree, the Compliance Officer may arrange and facilitate a meeting between the individual claiming harassment and the individual accused of harassment to work out a mutual resolution. Such a meeting is not appropriate in circumstances involving sexual violence.

While there are no set time limits within which an informal complaint must be resolved, the Compliance Officer or designee will exercise his/her authority to attempt to resolve all informal complaints within fifteen (15) business days of receiving the informal complaint. Parties who are dissatisfied with the results of the informal complaint process may proceed to file a formal complaint. And, as stated above, parties may request that the informal process be terminated at any time to move to the formal complaint process.

All materials generated as part of the informal complaint process will be retained by the Compliance Officers in accordance with the Board's records retention policy and/or Student Records policy. (See Policy 8310 and Policy 8330)

Formal Complaint Procedure

If a complaint is not resolved through the informal complaint process, if one of the parties has requested that the informal complaint process be terminated to move to the formal complaint process, or if the individual elects to file a formal complaint initially, the formal complaint process shall be implemented.

An individual who believes s/he has been subjected to offensive conduct/harassment/retaliation hereinafter referred to as the "Complainant", may file a formal complaint, either orally or in writing, with a teacher, principal, the Compliance Officer, Superintendent, or other District employee. Due to the sensitivity surrounding complaints of unlawful harassment and retaliation, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs while the facts are known and potential witnesses are available. If a Complainant informs a teacher, principal, Superintendent, or other District employee, either orally or in writing, about any complaint of harassment or retaliation, that employee must report such information to the Compliance Officer or designee within two (2) business days.

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

All formal complaints must include the following information to the extent it is available: the identity of the individual believed to have engaged in, or be engaging in, offensive conduct/harassment/retaliation; a detailed description of the facts upon which the complaint is based; a list of potential witnesses; and the resolution sought by the Complainant.

If the Complainant is unwilling or unable to provide a written statement including the information set forth above, the Compliance Officer shall ask for such details in an oral interview. Thereafter, the Compliance Officer will prepare a written summary of the oral interview, and the Complainant will be asked to verify the accuracy of the reported charge by signing the document.

Upon receiving a formal complaint, the Compliance Officer will consider whether any action should be taken in the investigatory phase to protect the Complainant from further harassment or retaliation, including, but not limited to, a change of work assignment or schedule for the Complainant and/or the alleged harasser. In making such a determination, the Compliance Officer should consult the Complainant to assess his/her agreement to the proposed action. If the Complainant is unwilling to consent to the proposed change, the Compliance Officer may still take whatever actions s/he deem appropriate in consultation with the Superintendent.

Within two (2) business days of receiving the complaint, the Compliance Officer or a designee will initiate a formal investigation to determine whether the Complainant has been subjected to offensive conduct/harassment/retaliation. A Principal will not conduct an investigation unless directed to do so by the Compliance Officer.

Simultaneously, the Compliance Officer will inform the individual alleged to have engaged in the harassing or retaliatory conduct, hereinafter referred to as the "Respondent", that a complaint has been received. The Respondent will be informed about the nature of the allegations and provided with a copy of any relevant administrative guidelines, including the Board's Anti-

Harassment Policy. The Respondent must also be informed of the opportunity to submit a written response to the complaint within five (5) business days.

**BOARD OF EDUCATION
YOUNGSTOWN CITY SCHOOL DISTRICT**

**ADMINISTRATION
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Although certain cases may require additional time, the Compliance Officer or a designee will attempt to complete an investigation into the allegations of harassment/retaliation within fifteen (15) business days of receiving the formal complaint. The investigation will include:

- A. interviews with the Complainant;
- B. interviews with the Respondent;
- C. interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations;
- D. consideration of any documentation or other information presented by the Complainant, Respondent, or any other witness that is reasonably believed to be relevant to the allegations.

At the conclusion of the investigation, the Compliance Officer or the designee shall prepare and deliver a written report to the Superintendent that summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful harassment as provided in Board policy and State and Federal law as to whether the Complainant has been subjected to unlawful harassment. The Compliance Officer's recommendations must be based upon the totality of the circumstances, including the ages and maturity levels of those involved. In determining if discriminatory harassment or retaliation occurred, a preponderance of evidence standard will be used. The Compliance Officer may consult with the Board's legal counsel before finalizing the report to the Superintendent.

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

If the Superintendent requests additional investigation, the Superintendent must specify the additional information that is to be gathered, and such additional investigation must be completed within five (5) business days. At the conclusion of the additional investigation, the Superintendent must issue a final written decision as described above.

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

In an attempt to resolve the complaint, the Board shall meet with the concerned parties and their representative within twenty (20) business days of the receipt of such an appeal. A copy of the Board's disposition of the appeal shall be sent to each concerned party within ten (10) business days of this meeting. The decision of the Board will be final.

The Board reserves the right to investigate and resolve a complaint or report of unlawful harassment/retaliation regardless of whether the member of the School District community or third party alleging the unlawful harassment/retaliation pursues the complaint. The Board also reserves the right to have the formal complaint investigation conducted by an external person in accordance with this policy or in such other manner as deemed appropriate by the Board or its designee.

Privacy/Confidentiality

The School District will employ all reasonable efforts to protect the rights of the Complainant, the individual(s) against whom the complaint is filed, and the witnesses as much as possible, consistent with the Board's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations. All records generated under the terms of this policy and related administrative guidelines shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed. All Complainants proceeding through the formal investigation process will be advised that their identities may be disclosed to the Respondent.

During the course of a formal investigation, the Compliance Officer or his/her designee will instruct all members of the School District community and third parties who are interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of a harassment investigation is expected not to disclose any information that s/he learns or that s/he provides during the course of the investigation.

All public records created as a part of an investigation of a complaint of harassment will be maintained by the Compliance Officer in accordance with the School Board's records retention policy. Any records that are considered student education records in accordance with the *Family Educational Rights and Privacy Act* or under Ohio's student records law will be maintained in a manner consistent with the provisions of the Federal and State laws.

Sanctions and Monitoring

The Board shall vigorously enforce its prohibitions against unlawful harassment by taking appropriate action reasonably calculated to stop the harassment and prevent further such harassment. While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable State law and the terms of the relevant collective bargaining agreement(s). When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter, including the ages and maturity levels of those involved. In those cases where unlawful harassment is not substantiated, the Board may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies, consistent with the terms of the relevant collective bargaining agreement(s).

Where the Board becomes aware that a prior remedial action has been taken against a member of the School District community, all subsequent sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to end such conduct, prevent its recurrence, and remedy its effects.

Retaliation

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

Allegations Constituting Criminal Conduct: Child Abuse/Sexual Misconduct

State law requires any school teacher or school employee who knows or suspects that a child with a disability under the age of twenty-one (21) or that a child under the age of eighteen (18) has suffered or faces a threat of suffering a physical or mental wound, disability or condition of a nature that reasonably indicates abuse or neglect of a child to immediately report that knowledge or suspicion to the county children's services agency. If, during the course of a harassment investigation, the Compliance Officer or a designee has reason to believe or suspect that the alleged conduct reasonably indicates abuse or neglect of the Complainant, a report of such knowledge must be made in accordance with State law and Board Policy.

State law defines certain contact between a teacher and a student as "sexual battery." If the Compliance Officer or a designee has reason to believe that the Complainant has been the victim of criminal conduct as defined in Ohio's Criminal Code, such knowledge should be immediately reported to local law enforcement.

Any reports made to a county children's services agency or to local law enforcement shall not terminate the Compliance Officer or a designee's obligation and responsibility to continue to investigate a complaint of harassment. While the Compliance Officer or a designee may work cooperatively with outside agencies to conduct concurrent investigations, in no event shall the harassment investigation be inhibited by the involvement of outside agencies without good cause after consultation with the Superintendent.

Allegations Involving Conduct Unbecoming the Teaching Profession/Suspension

The Superintendent will report to the Ohio Department of Education, on forms provided for that purpose, matters of misconduct on the part of licensed professional staff members convicted of sexual battery, and will, in accordance with Policy 8141, suspend such employee from all duties that concern or involve the care, custody, or control of a child during the pendency of any criminal action for which that person has been arrested, summoned and/or indicted in that regard.

Education and Training

In support of this Anti-Harassment Policy, the Board promotes preventative educational measures to create greater awareness of unlawful discriminatory practices. The Superintendent or designee shall provide appropriate information to all members of the School District community related to the implementation of this policy and shall provide training for District students and staff where appropriate. All training, as well as all information provided regarding the Board's policy and harassment in general, will be age and content appropriate.

R.C. 4112.02

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

20 U.S.C. 1681 et seq.

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

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

29 C.F.R. Part 1635

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

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

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

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

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

42 U.S.C. 1983

National School Boards Association Inquiry and Analysis – May 2008

Adopted:

**The Public Schools
Youngstown, Ohio
Office of the Superintendent**

RESOLUTION NO. 221-13

**RESOLUTION TO AOPPROVE REVISED POLICY ON
ANTI-HARASSMENT
(PROFESSIONAL STAFF)**

WHEREAS, the Board of Education of the Youngstown City School District adopted a policy to maintain an education and work environment which is free from all forms of unlawful harassment, including sexual harassment; and

WHEREAS, the Board has caused its policy to be reviewed by the Superintendent and his designees to obtain a recommendation as to updating such policy with revisions as are necessary and appropriate; and

WHEREAS, the Superintendent has recommended that the Board adopt the revised policy entitled “Anti-Harassment” at Section 3362 of its Policy Manual.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Education of the Youngstown City School District hereby ratifies, approves and adopts the revised policy entitled “Anti-Harassment,” a copy of which is attached hereto and made a part hereof by this reference.

Ms. Haire-Ellis moved, seconded by Mr. Beachum that the foregoing resolution be adopted.

Ayes: Kimble, Mahone, Atkinson, Beachum, Haire-Ellis, Hanni

Nays: None

Motion carried.

10/22/13

**BOARD OF EDUCATION
YOUNGSTOWN CITY SCHOOL DISTRICT**

**PROFESSIONAL STAFF
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ANTI-HARASSMENT

General Policy Statement

It is the policy of the Board of Education to maintain an education and work environment **that** is free from all forms of unlawful harassment, including sexual harassment. This commitment applies to all School District operations, programs, and activities. All students, administrators, teachers, staff, and all other school personnel share responsibility for avoiding, discouraging, and reporting any form of unlawful harassment. This policy applies to unlawful conduct occurring on school property, or at another location if such conduct occurs during an activity sponsored by the Board.

The Board will vigorously enforce its prohibition against **discriminatory** harassment based on race, color, national origin, **sex (including sexual orientation and transgender identity)**, disability, **age, religion, ancestry, or genetic information (collectively, “Protected Classes”)** **that are protected by Federal civil rights laws (hereinafter referred to as “unlawful harassment”)**, and encourages those within the School District community as well as third parties, who feel aggrieved to seek assistance to rectify **such** problems. The Board will investigate all allegations of harassment and in those cases where unlawful harassment is substantiated, the Board will take immediate steps to end the harassment, **prevent its reoccurrence, and remedy its effects**. Individuals who are found to have engaged in unlawful harassment will be subject to appropriate disciplinary action.

For purposes of this policy, "School District community" means students, administrators, **and professional and classified staff, as well as** Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

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

Other Violations of the Anti-Harassment Policy

The Board will also take immediate steps to impose disciplinary action on individuals engaging in any of the following prohibited acts:

- A. Retaliating against a person who has made a report or filed a complaint alleging **unlawful** harassment, or who has participated as a witness in a harassment investigation.
- B. Filing a malicious or knowingly false report or complaint of **unlawful** harassment.
- C. Disregarding, failing to investigate adequately, or delaying investigation of allegations of harassment, when responsibility for reporting and/or investigating **unlawful** harassment charges comprises part of one's supervisory duties.

Definitions

Bullying

Bullying rises to the level of unlawful harassment when one or more persons systematically and chronically inflict physical hurt or psychological distress on one (1) or more students or employees and that bullying is based upon one (1) or more Protected Classes, that is, characteristics that are protected by Federal civil rights laws. It is defined as any unwanted and repeated written, verbal, or physical behavior, including any threatening, insulting, or dehumanizing gesture, by an adult or student, that is severe or pervasive enough to create an intimidating, hostile, or offensive educational or work environment; cause discomfort or humiliation; or unreasonably interfere with the individual's school or work performance or participation; and may involve:

- A. **teasing;**
- B. **threats;**
- C. **intimidation;**
- D. **stalking;**
- E. **cyberstalking;**

- F. cyberbullying;**
- G. physical violence;**
- H. theft;**
- I. sexual, religious, or racial harassment;**
- J. public humiliation; or**
- K. destruction of property.**

"Harassment" means any threatening, insulting, or dehumanizing gesture, use of technology, or written, verbal or physical conduct directed against a student or school employee that:

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

Sexual Harassment

Pursuant to Title VII of the Civil Rights Act of 1964 and Title IX of the Educational Amendments of 1972, "sexual harassment" is defined as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when:

- A. Submission to such conduct is made either implicitly or explicitly a term or condition of an individual's employment, or status in a class, educational program, or activity.**
- B. Submission or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individual.**

- C. Such conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity.

Sexual harassment may involve the behavior of a person of either gender against a person of the same or opposite gender.

Prohibited acts that constitute sexual harassment may take a variety of forms. Examples of the kinds of conduct that may constitute sexual harassment include, but are not limited to:

- A. Unwelcome sexual propositions, invitations, solicitations, and flirtations.
- B. **Unwanted physical and/or sexual contact.**
- C. Threats or insinuations that a person's employment, wages, academic grade, promotion, classroom work or assignments, academic status, participation in athletics or extra-curricular programs or events, or other conditions of employment or education may be adversely affected by not submitting to sexual advances.
- D. Unwelcome verbal expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, jokes or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene telephone calls.
- E. Sexually suggestive objects, pictures, videotapes, audio recordings or literature, placed in the work or educational environment, which may embarrass or offend individuals.
- F. Unwelcome and inappropriate touching, patting, or pinching; obscene gestures.
- G. A pattern of conduct, which can be subtle in nature, that has sexual overtones and is intended to create or has the effect of creating discomfort and/or humiliation to another.

- H. Remarks speculating about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history.
- I. In the context of employees, consensual sexual relationships where such relationship leads to favoritism of a subordinate employee with whom the superior is sexually involved and where such favoritism adversely affects other employees or otherwise creates a hostile work environment.
- J. Inappropriate boundary invasions by a District employee or other adult member of the School District community into a student's personal space and personal life.
- K. Verbal, nonverbal or physical aggression, intimidation, or hostility based on sex or sex-stereotyping that does not involve conduct of a sexual nature.**

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

NOTE: Sexual conduct/relationships with students by District employees or any other adult member of the School District community is prohibited, and any teacher, administrator, coach, or other school authority who engages in sexual conduct with a student may also be guilty of the criminal charge of "sexual battery" as set forth in R.C. 2907.03. The issue of consent is irrelevant in regard to such criminal charge and/or with respect to the application of this policy to District employees or other adult members of the School District community.

Race/Color Harassment

Prohibited racial harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's race or color and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's race or color, such as racial slurs, nicknames implying stereotypes, epithets, and/or negative references relative to racial customs.

Religious (Creed) Harassment

Prohibited religious harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's religion or creed and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's religious tradition, clothing, or surnames, and/or involves religious slurs.

National Origin/Ancestry Harassment

Prohibited national origin/**ancestry** harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's national origin **or ancestry** and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's national origin **or ancestry**, such as negative comments regarding customs, manner of speaking, language, surnames, or ethnic slurs.

Disability Harassment

Prohibited disability harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's disability and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's disabling condition, such as negative comments about speech patterns, movement, physical impairments or defects/appearances, or the like. Such harassment may further occur where conduct is directed at or pertains to a person's genetic information.

Reports and Complaints of Harassing Conduct

Members of the School District community, **which includes all staff**, and third parties are encouraged to promptly report incidents of harassing conduct to an administrator, supervisor or other School District official so that the Board may address the conduct before it becomes severe, pervasive, or persistent. **Any administrator, supervisor, or other District official who receives such a complaint shall file it with the District's Anti-Harassment Compliance Officer at his/her first convenience.**

Members of the School District community or third parties who believe they have been unlawfully harassed by another member of the School District community or a third party are entitled to utilize the Board's complaint process **that is set forth below**. Initiating a complaint, whether formally or informally, will not adversely affect the complaining individual's employment or participation in educational or extra-curricular programs. While there are no time limits for initiating complaints of harassment under this policy, individuals should make every effort to file a complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available.

If, during an investigation of alleged bullying, aggressive behavior and/or harassment in accordance with Policy 5517.01 – Bullying and Other Forms of Aggressive Behavior, the Principal believes that the reported misconduct may have created a hostile work environment and may have constituted unlawful discriminatory harassment based on a Protected Class, the Principal shall report the act of bullying, aggressive behavior and/or harassment to one of the Anti-Harassment Compliance Officers who shall investigate the allegation in accordance with this policy. While the Compliance Officer investigates the allegation, the Principal shall suspend his/her 5517.01 investigation to await the Compliance Officer's written report. The Compliance Officer shall keep the Principal informed of the status of the 3362 investigation and provide him/her with a copy of the resulting written report.

Anti-Harassment Compliance Officers

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

Executive Director of Special Education
Youngstown Board of Education
20 West Wood Street
P.O. Box 550
Youngstown, Ohio 44501-0550
330-744-6965
330-744-8869 (Fax No.)

Assistant Superintendent of Human Resources
Youngstown Board of Education
20 West Wood Street
P.O. Box 550
Youngstown, Ohio 44501-0550
330-744-6925
330-744-5295 (Fax No.)

The names, titles, and contact information of these individuals will be published annually, in the parent and staff handbooks, in the School District Annual Report to the public, on the School District's web site, and/or are available upon request from the Superintendent's Office.

The Compliance Officers will be available during regular school/work hours to discuss concerns related to unlawful harassment, to assist students, other members of the District community, and third parties who seek support or advice when informing another individual about "unwelcome" conduct, or to intercede informally on behalf of the individual in those instances where concerns have not resulted in the filing of a formal complaint and where all parties are in agreement to participate in an informal process.

Compliance Officers shall accept complaints of unlawful harassment directly from any member of the School District community or a visitor to the District, or receive complaints that are initially filed with a school building administrator. Upon receipt of a complaint either directly or through a school building administrator, a Compliance Officer will begin either an informal or formal process (depending on the request of the person alleging the harassment or the nature of the alleged harassment), or the Compliance Officer will designate a specific individual to conduct such a process. In the case of a formal complaint, the Compliance Officer will prepare recommendations for the Superintendent or will oversee the preparation of such recommendations by a designee. All members of the School District community must report incidents of harassment that are reported to them to the Compliance Officer within two (2) business days of learning of the incident.

Any Board employee who directly observes unlawful harassment of a student is obligated, in accordance with this policy, to report such observations to one of the Compliance Officers within two (2) business days. Additionally, any Board employee who observes an act of unlawful harassment is expected to intervene to stop the harassment, unless circumstances make such an intervention dangerous, in which case the staff member should immediately notify other Board employees and/or local law enforcement officials, as necessary, to stop the harassment. Thereafter, the Compliance Officer, or designee must contact the student, if age eighteen (18) or older, or the student's parents if under the age eighteen (18), within two (2) business days to advise s/he/them of the Board's intent to investigate the alleged misconduct, including the obligation of the Compliance Officer or designee to conduct an investigation following all the procedures outlined for a formal complaint.

Investigation and Complaint Procedure (See Form 3362 F1)

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

Due to the sensitivity surrounding complaints of unlawful harassment, or retaliation timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs while the facts are known and potential witnesses are available. Once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within fifteen (15) business days of the complaint being received).

The informal and formal procedures set forth below are not intended to interfere with the rights of any individual to pursue a complaint of unlawful harassment or retaliation with the United States Department of Education Office for Civil Rights, the Ohio Civil Rights Commission (“OCRC”) or Equal Employment Opportunity Commission (“EEOC”).

Informal Complaint Procedure

The goal of the informal complaint procedure is to stop inappropriate behavior and to investigate and facilitate resolution through an informal means, if possible. The informal complaint procedure is provided as a less formal option for a student, other member of the School District community, or third party who believes s/he has been unlawfully harassed or retaliated against. This informal procedure is not required as a precursor to the filing of a formal complaint and will only be utilized where the parties (alleged target of harassment and alleged harasser(s)) agree to participate in such process.

Employees, other members of the School District community, or third parties who believe that they have been unlawfully harassed or retaliated against may proceed immediately to the formal complaint process and individuals who seek resolution through the informal procedure may request that the informal process be terminated at any time to move to the formal complaint process.

However, all complaints of harassment involving a District employee, any other adult member of the School District community, or a third party against a student will be formally investigated. Similarly, any allegations of sexual violence will be formally investigated.

As an initial course of action, if an individual feels that s/he is being unlawfully harassed and s/he is able and feels safe doing so, the individual should tell or otherwise inform the harasser that the conduct is unwelcome and must stop. Such direct communication should not be utilized in circumstances involving sexual violence. The complaining individual should address the allegedly harassing conduct as soon after it occurs as possible. The Compliance Officers are available to support and counsel individuals when taking this initial step or to intervene on behalf of the individual if requested to do so. An individual who is uncomfortable or unwilling to inform the harasser of his/her complaint is not prohibited from otherwise filing an informal or a formal complaint. In addition, with regard to certain types of unlawful harassment, such as sexual harassment, the Compliance Officer may advise against the use of the informal complaint process.

An individual who believes s/he has been unlawfully harassed may make an informal complaint, either orally or in writing: (1) to a teacher, other employee, or building administrator; (2) directly to one of the Compliance Officers; and/or (3) to the Superintendent or other District-level employee.

All informal complaints must be reported to one of the Compliance Officers who will either facilitate an informal resolution as described below on his/her own, or appoint another individual to facilitate an informal resolution.

The School District's informal complaint procedure is designed to provide employees, other members of the School District community, or third parties who believe they are being unlawfully harassed with a range of options designed to bring about a resolution of their concerns. Depending upon the nature of the complaint and the wishes of the individual claiming unlawful harassment, informal resolution may involve, but not be limited to, one or more of the following:

- A. Advising the individual about how to communicate the unwelcome nature of the behavior to the alleged harasser.**
- B. Distributing a copy of the anti-harassment policy as a reminder to the individuals in the school building or office where the individual whose behavior is being questioned works or attends.**
- C. If both parties agree, the Compliance Officer may arrange and facilitate a meeting between the individual claiming harassment and the individual accused of harassment to work out a mutual resolution. Such a meeting is not appropriate in circumstances involving sexual violence.**

While there are no set time limits within which an informal complaint must be resolved, the Compliance Officer or designee will exercise his/her authority to attempt to resolve all informal complaints within fifteen (15) business days of receiving the informal complaint. Parties who are dissatisfied with the results of the informal complaint process may proceed to file a formal complaint. And, as stated above, parties may request that the informal process be terminated at any time to move to the formal complaint process.

All materials generated as part of the informal complaint process will be retained by the Compliance Officers in accordance with the Board's records retention policy and/or Student Records policy. (See Policy 8310 and Policy 8330)

Formal Complaint Procedure

If a complaint is not resolved through the informal complaint process, if one of the parties has requested that the informal complaint process be terminated to move to the formal complaint process, or if the individual elects to file a formal complaint initially, the formal complaint process shall be implemented.

An individual who believes s/he has been subjected to offensive conduct/harassment/retaliation hereinafter referred to as the "Complainant", may file a formal complaint, either orally or in writing, with a teacher, principal, the Compliance Officer, Superintendent, or other District employee. Due to the sensitivity surrounding complaints of unlawful harassment and retaliation, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs while the facts are known and potential witnesses are available. If a Complainant informs a teacher, principal, Superintendent, or other District employee, either orally or in writing, about any complaint of harassment or retaliation, that employee must report such information to the Compliance Officer or designee within two (2) business days.

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

All formal complaints must include the following information to the extent it is available: the identity of the individual believed to have engaged in, or be engaging in, offensive conduct/harassment/retaliation; a detailed description of the facts upon which the complaint is based; a list of potential witnesses; and the resolution sought by the Complainant.

If the Complainant is unwilling or unable to provide a written statement including the information set forth above, the Compliance Officer shall ask for such details in an oral interview. Thereafter, the Compliance Officer will prepare a written summary of the oral interview, and the Complainant will be asked to verify the accuracy of the reported charge by signing the document.

Upon receiving a formal complaint, the Compliance Officer will consider whether any action should be taken in the investigatory phase to protect the Complainant from further harassment or retaliation, including, but not limited to, a change of work assignment or schedule for the Complainant and/or the alleged harasser. In making such a determination, the Compliance Officer should consult the Complainant to assess his/her agreement to the proposed action. If the Complainant is unwilling to consent to the proposed change, the Compliance Officer may still take whatever actions s/he deem appropriate in consultation with the Superintendent.

Within two (2) business days of receiving the complaint, the Compliance Officer or a designee will initiate a formal investigation to determine whether the Complainant has been subjected to offensive conduct/harassment/retaliation. A Principal will not conduct an investigation unless directed to do so by the Compliance Officer.

Simultaneously, the Compliance Officer will inform the individual alleged to have engaged in the harassing or retaliatory conduct, hereinafter referred to as the "Respondent", that a complaint has been received. The Respondent will be informed about the nature of the allegations and provided with a copy of any relevant administrative guidelines, including the Board's Anti-Harassment policy. The Respondent must also be informed of the opportunity to submit a written response to the complaint within five (5) business days.

Although certain cases may require additional time, the Compliance Officer or a designee will attempt to complete an investigation into the allegations of harassment/retaliation within fifteen (15) business days of receiving the formal complaint. The investigation will include:

- A. interviews with the Complainant;
- B. interviews with the Respondent;
- C. interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations;
- D. consideration of any documentation or other information presented by the Complainant, Respondent, or any other witness that is reasonably believed to be relevant to the allegations.

At the conclusion of the investigation, the Compliance Officer or the designee shall prepare and deliver a written report to the Superintendent that summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful harassment as provided in Board policy and State and Federal law as to whether the Complainant has been subjected to unlawful harassment. The Compliance Officer's recommendations must be based upon the totality of the circumstances, including the ages and maturity levels of those involved. In determining if discriminatory harassment or retaliation occurred, a preponderance of evidence standard will be used. The Compliance Officer may consult with the Board's legal counsel before finalizing the report to the Superintendent.

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

If the Superintendent requests additional investigation, the Superintendent must specify the additional information that is to be gathered, and such additional investigation must be completed within five (5) business days. At the conclusion of the additional investigation, the Superintendent must issue a final written decision as described above. A Complainant or Respondent who is dissatisfied with the final decision of the Superintendent may appeal through a signed written statement to the Board within five (5) business days of his/her receipt of the Superintendent's final decision.

In an attempt to resolve the complaint, the Board shall meet with the concerned parties and their representatives within twenty (20) business days of the receipt of such an appeal. A copy of the Board's disposition of the appeal shall be sent to each concerned party within ten (10) business days of this meeting. The decision of the Board will be final.

The Board reserves the right to investigate and resolve a complaint or report of unlawful harassment/retaliation regardless of whether the member of the School District community or third party alleging the unlawful harassment/retaliation pursues the complaint. The Board also reserves the right to have the formal complaint investigation conducted by an external person in accordance with this policy or in such other manner as deemed appropriate by the Board or its designee.

Privacy/Confidentiality

The School District **will employ all reasonable efforts to protect the rights** of the Complainant, the individual(s) against whom the complaint is filed, and the witnesses as much as possible, consistent with the Board's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations. All records generated under the terms of this policy and related administrative guidelines shall be maintained as confidential to the extent permitted by law. **Confidentiality, however, cannot be guaranteed. All Complainants proceeding through the formal investigation process will be advised that their identities may be disclosed to the Respondent.**

During the course of a formal investigation, the Compliance Officer or his/her designee will instruct all members of the School District community and third parties who are interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of a harassment investigation is expected not to disclose any information that s/he learns or that s/he provides during the course of the investigation.

All public records created as a part of an investigation of a complaint of harassment will be maintained by the Compliance Officer in accordance with the School Board's records retention policy. Any records that are considered student education records in accordance with the *Family Educational Rights and Privacy Act* or under Ohio's student records law will be maintained in a manner consistent with the provisions of the Federal and State laws.

Sanctions and Monitoring

The Board shall vigorously enforce its prohibitions against unlawful harassment **by taking appropriate action reasonably calculated to stop the harassment and prevent further such harassment.** While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable State law and the terms of the relevant collective bargaining agreement(s). When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter, including the ages and maturity levels of those involved. In those cases where unlawful harassment is not substantiated, the Board may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies, consistent with the terms of the relevant collective bargaining agreement(s).

Where the Board becomes aware that a prior remedial action has been taken against a member of the School District community, all subsequent sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to **end such conduct, prevent its recurrence, and remedy its effect.**

Retaliation

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

Allegations Constituting Criminal Conduct: Child Abuse/Sexual Misconduct

State law requires any school teacher or school employee who knows or suspects that a child with a disability under the age of twenty-one (21) or that a child under the age of eighteen (18) has suffered or faces a threat of suffering a physical or mental wound, disability or condition of a nature that reasonably indicates abuse or neglect of a child to immediately report that knowledge or suspicion to the county children's services agency. If, during the course of a harassment investigation, the Compliance Officer or a designee has reason to believe or suspect that the alleged conduct reasonably indicates abuse or neglect of the Complainant, a report of such knowledge must be made in accordance with State law and Board Policy.

State law defines certain contact between a teacher and a student as "sexual battery." If the Compliance Officer or a designee has reason to believe that the Complainant has been the victim of criminal conduct as defined in Ohio's Criminal Code, such knowledge should be immediately reported to local law enforcement.

Any reports made to a county children's services agency or to local law enforcement shall not terminate the Compliance Officer or a designee's obligation and responsibility to continue to investigate a complaint of harassment. While the Compliance Officer or a designee may work cooperatively with outside agencies to conduct concurrent investigations, in no event shall the harassment investigation be inhibited by the involvement of outside agencies without good cause after consultation with the Superintendent.

Allegations Involving Conduct Unbecoming the Teaching Profession/Suspension

The Superintendent will report to the Ohio Department of Education, on forms provided for that purpose, matters of misconduct on the part of licensed professional staff members convicted of sexual battery, and will, in accordance with Policy 8141, suspend such employee from all duties that concern or involve the care, custody, or control of a child during the pendency of any criminal action for which that person has been arrested, summoned and/or indicted in that regard.

Education and Training

In support of this Anti-Harassment Policy, the Board promotes preventative educational measures to create greater awareness of unlawful discriminatory practices. The Superintendent or designee shall provide appropriate **information** to all members of the School District community related to the implementation of this policy and **shall provide training for District students and staff where appropriate**. All training, as well as all information provided regarding the Board's policy and harassment in general, will be age and content appropriate.

R.C. 4112.02

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

20 U.S.C. 1681 et seq.

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

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

29 C.F.R. Part 1635

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

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

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

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

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

42 U.S.C. 1983

National School Boards Association Inquiry and Analysis – May 2008

Adopted: 8/24/04

Revised: 5/23/06

Revised: 6/08/10

Revised:

**The Public Schools
Youngstown, Ohio
Office of the Superintendent**

RESOLUTION NO. 222-13

**RESOLUTION TO APPROVE REVISED POLICY ON
ANTI-HARASSMENT
(CLASSIFIED STAFF)**

WHEREAS, the Board of Education of the Youngstown City School District is committed to maintain an education and work environment which is free from all forms of unlawful harassment, including sexual harassment; and

WHEREAS, the Board has caused its policy to be reviewed by the Superintendent and his designees to obtain a recommendation as to updating such policy with revisions as are necessary and appropriate; and

WHEREAS, the Superintendent has recommended that the Board adopt the revised policy entitled "Anti-Harassment" at Section 4362 of its Policy Manual.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Education of the Youngstown City School District hereby ratifies, approves and adopts the revised policy entitled "Anti-Harassment," a copy of which is attached hereto and made a part hereof by this reference.

Ms. Haire-Ellis moved, seconded by Mr. Beachum that the foregoing resolution be adopted.

Ayes: Kimble, Mahone, Atkinson, Beachum, Haire-Ellis, Hanni

Nays: None

Motion carried.

10/22/13

**BOARD OF EDUCATION
YOUNGSTOWN CITY SCHOOL DISTRICT**

**CLASSIFIED STAFF
4362/page 1 of 18**

ANTI-HARASSMENT

General Policy Statement

It is the policy of the Board of Education to maintain an education and work environment **that** is free from all forms of unlawful harassment, including sexual harassment. This commitment applies to all School District operations, programs, and activities. All students, administrators, teachers, staff, and all other school personnel share responsibility for avoiding, discouraging, and reporting any form of unlawful harassment. This policy applies to unlawful conduct occurring on school property, or at another location if such conduct occurs during an activity sponsored by the Board.

The Board will vigorously enforce its prohibition against **discriminatory** harassment based on race, color, national origin, **sex (including sexual orientation and transgender identity)**, disability, **age, religion, ancestry, or genetic information (collectively, “Protected Classes”)** **that are protected by Federal civil rights laws (hereinafter referred to as “unlawful harassment”)**, and encourages those within the School District community as well as third parties, who feel aggrieved to seek assistance to rectify **such** problems. The Board will investigate all allegations of harassment and in those cases where unlawful harassment is substantiated, the Board will take immediate steps to end the harassment, **prevent its reoccurrence, and remedy its effects**. Individuals who are found to have engaged in unlawful harassment will be subject to appropriate disciplinary action.

For purposes of this policy, "School District community" means students, administrators, **and professional and classified staff, as well as** Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

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

Other Violations of the Anti-Harassment Policy

The Board will also take immediate steps to impose disciplinary action on individuals engaging in any of the following prohibited acts:

- A. Retaliating against a person who has made a report or filed a complaint alleging **unlawful** harassment, or who has participated as a witness in a harassment investigation.
- B. Filing a malicious or knowingly false report or complaint of **unlawful** harassment.
- C. Disregarding, failing to investigate adequately, or delaying investigation of allegations of harassment, when responsibility for reporting and/or investigating **unlawful** harassment charges comprises part of one's supervisory duties.

Definitions

Bullying

Bullying rises to the level of unlawful harassment when one or more persons systematically and chronically inflict physical hurt or psychological distress on one (1) or more students or employees and that bullying is based upon one (1) or more Protected Classes, that is, characteristics that are protected by Federal civil rights laws. It is defined as any unwanted and repeated written, verbal, or physical behavior, including any threatening, insulting, or dehumanizing gesture, by an adult or student, that is severe or pervasive enough to create an intimidating, hostile, or offensive educational or work environment; cause discomfort or humiliation; or unreasonably interfere with the individual's school or work performance or participation; and may involve:

- A. **teasing;**
- B. **threats;**
- C. **intimidation;**
- D. **stalking;**
- E. **cyberstalking;**

- F. cyberbullying;**
- G. physical violence;**
- H. theft;**
- I. sexual, religious, or racial harassment;**
- J. public humiliation; or**
- K. destruction of property.**

"Harassment" means any threatening, insulting, or dehumanizing gesture, use of technology, or written, verbal or physical conduct directed against a student or school employee that:

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

Sexual Harassment

Pursuant to Title VII of the Civil Rights Act of 1964 and Title IX of the Educational Amendments of 1972, "sexual harassment" is defined as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when:

- A. Submission to such conduct is made either implicitly or explicitly a term or condition of an individual's employment, or status in a class, educational program, or activity.**
- B. Submission or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individual.**

- C. Such conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity.

Sexual harassment may involve the behavior of a person of either gender against a person of the same or opposite gender.

Prohibited acts that constitute sexual harassment may take a variety of forms. Examples of the kinds of conduct that may constitute sexual harassment include, but are not limited to:

- A. Unwelcome sexual propositions, invitations, solicitations, and flirtations.
- B. **Unwanted physical and/or sexual contact.**
- C. Threats or insinuations that a person's employment, wages, academic grade, promotion, classroom work or assignments, academic status, participation in athletics or extra-curricular programs or events, or other conditions of employment or education may be adversely affected by not submitting to sexual advances.
- D. Unwelcome verbal expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, jokes or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene telephone calls.
- E. Sexually suggestive objects, pictures, videotapes, audio recordings or literature, placed in the work or educational environment, which may embarrass or offend individuals.
- F. Unwelcome and inappropriate touching, patting, or pinching; obscene gestures.
- G. A pattern of conduct, which can be subtle in nature, that has sexual overtones and is intended to create or has the effect of creating discomfort and/or humiliation to another.

- H. Remarks speculating about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history.
- I. In the context of employees, consensual sexual relationships where such relationship leads to favoritism of a subordinate employee with whom the superior is sexually involved and where such favoritism adversely affects other employees or otherwise creates a hostile work environment.
- J. Inappropriate boundary invasions by a District employee or other adult member of the School District community into a student's personal space and personal life.
- K. Verbal, nonverbal or physical aggression, intimidation, or hostility based on sex or sex-stereotyping that does not involve conduct of a sexual nature.**

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

NOTE: Sexual conduct/relationships with students by District employees or any other adult member of the School District community is prohibited, and any teacher, administrator, coach, or other school authority who engages in sexual conduct with a student may also be guilty of the criminal charge of "sexual battery" as set forth in R.C. 2907.03. The issue of consent is irrelevant in regard to such criminal charge and/or with respect to the application of this policy to District employees or other adult members of the School District community.

Race/Color Harassment

Prohibited racial harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's race or color and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's race or color, such as racial slurs, nicknames implying stereotypes, epithets, and/or negative references relative to racial customs.

Religious (Creed) Harassment

Prohibited religious harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's religion or creed and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's religious tradition, clothing, or surnames, and/or involves religious slurs.

National Origin/Ancestry Harassment

Prohibited national origin/**ancestry** harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's national origin **or ancestry** and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's national origin **or ancestry**, such as negative comments regarding customs, manner of speaking, language, surnames, or ethnic slurs.

Disability Harassment

Prohibited disability harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's disability and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's disabling condition, such as negative comments about speech patterns, movement, physical impairments or defects/appearances, or the like. Such harassment may further occur where conduct is directed at or pertains to a person's genetic information.

Reports and Complaints of Harassing Conduct

Members of the School District community, **which includes all staff**, and third parties are encouraged to promptly report incidents of harassing conduct to an administrator, supervisor or other School District official so that the Board may address the conduct before it becomes severe, pervasive, or persistent. **Any administrator, supervisor, or other District official who receives such a complaint shall file it with the District's Anti-Harassment Compliance Officer at his/her first convenience.**

Members of the School District community or third parties who believe they have been unlawfully harassed by another member of the School District community or a third party are entitled to utilize the Board's complaint process **that is set forth below**. Initiating a complaint, whether formally or informally, will not adversely affect the complaining individual's employment or participation in educational or extra-curricular programs. While there are no time limits for initiating complaints of harassment under this policy, individuals should make every effort to file a complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available.

If, during an investigation of alleged bullying, aggressive behavior and/or harassment in accordance with Policy 5517.01 – Bullying and Other Forms of Aggressive Behavior, the Principal believes that the reported misconduct may have created a hostile work environment and may have constituted unlawful discriminatory harassment based on a Protected Class, the Principal shall report the act of bullying, aggressive behavior and/or harassment to one of the Anti-Harassment Compliance Officers who shall investigate the allegation in accordance with this policy. While the Compliance Officer investigates the allegation, the Principal shall suspend his/her 5517.01 investigation to await the Compliance Officer's written report. The Compliance Officer shall keep the Principal informed of the status of the 3362 investigation and provide him/her with a copy of the resulting written report.

Anti-Harassment Compliance Officers

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

Executive Director of Special Education
Youngstown Board of Education
20 West Wood Street
P.O. Box 550
Youngstown, Ohio 44501-0550
330-744-6965
330-744-8869 (Fax No.)

Assistant Superintendent of Human Resources
Youngstown Board of Education
20 West Wood Street
P.O. Box 550
Youngstown, Ohio 44501-0550
330-744-6925
330-744-5295 (Fax No.)

The names, titles, and contact information of these individuals will be published annually, in the parent and staff handbooks, in the School District Annual Report to the public, on the School District's web site, and/or are available upon request from the Superintendent's Office.

The Compliance Officers will be available during regular school/work hours to discuss concerns related to unlawful harassment, to assist students, other members of the District community, and third parties who seek support or advice when informing another individual about "unwelcome" conduct, or to intercede informally on behalf of the individual in those instances where concerns have not resulted in the filing of a formal complaint and where all parties are in agreement to participate in an informal process.

Compliance Officers shall accept complaints of unlawful harassment directly from any member of the School District community or a visitor to the District, or receive complaints that are initially filed with a school building administrator. Upon receipt of a complaint either directly or through a school building administrator, a Compliance Officer will begin either an informal or formal process (depending on the request of the person alleging the harassment or the nature of the alleged harassment), or the Compliance Officer will designate a specific individual to conduct such a process. In the case of a formal complaint, the Compliance Officer will prepare recommendations for the Superintendent or will oversee the preparation of such recommendations by a designee. All members of the School District community must report incidents of harassment that are reported to them to the Compliance Officer within two (2) business days of learning of the incident.

Any Board employee who directly observes unlawful harassment of a student is obligated, in accordance with this policy, to report such observations to one of the Compliance Officers within two (2) business days. Additionally, any Board employee who observes an act of unlawful harassment is expected to intervene to stop the harassment, unless circumstances make such an intervention dangerous, in which case the staff member should immediately notify other Board employees and/or local law enforcement officials, as necessary, to stop the harassment. Thereafter, the Compliance Officer, or designee must contact the student, if age eighteen (18) or older, or the student's parents if under the age eighteen (18), within two (2) business days to advise s/he/them of the Board's intent to investigate the alleged misconduct, including the obligation of the Compliance Officer or designee to conduct an investigation following all the procedures outlined for a formal complaint.

Investigation and Complaint Procedure (See Form 3362 F1)

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

Due to the sensitivity surrounding complaints of unlawful harassment, or retaliation timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs while the facts are known and potential witnesses are available. Once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within fifteen (15) business days of the complaint being received).

The informal and formal procedures set forth below are not intended to interfere with the rights of any individual to pursue a complaint of unlawful harassment or retaliation with the United States Department of Education Office for Civil Rights, the Ohio Civil Rights Commission (“OCRC”) or Equal Employment Opportunity Commission (“EEOC”).

Informal Complaint Procedure

The goal of the informal complaint procedure is to stop inappropriate behavior and to investigate and facilitate resolution through an informal means, if possible. The informal complaint procedure is provided as a less formal option for a student, other member of the School District community, or third party who believes s/he has been unlawfully harassed or retaliated against. This informal procedure is not required as a precursor to the filing of a formal complaint and will only be utilized where the parties (alleged target of harassment and alleged harasser(s)) agree to participate in such process.

Employees, other members of the School District community, or third parties who believe that they have been unlawfully harassed or retaliated against may proceed immediately to the formal complaint process and individuals who seek resolution through the informal procedure may request that the informal process be terminated at any time to move to the formal complaint process.

However, all complaints of harassment involving a District employee, any other adult member of the School District community, or a third party against a student will be formally investigated. Similarly, any allegations of sexual violence will be formally investigated.

As an initial course of action, if an individual feels that s/he is being unlawfully harassed and s/he is able and feels safe doing so, the individual should tell or otherwise inform the harasser that the conduct is unwelcome and must stop. Such direct communication should not be utilized in circumstances involving sexual violence. The complaining individual should address the allegedly harassing conduct as soon after it occurs as possible. The Compliance Officers are available to support and counsel individuals when taking this initial step or to intervene on behalf of the individual if requested to do so. An individual who is uncomfortable or unwilling to inform the harasser of his/her complaint is not prohibited from otherwise filing an informal or a formal complaint. In addition, with regard to certain types of unlawful harassment, such as sexual harassment, the Compliance Officer may advise against the use of the informal complaint process.

An individual who believes s/he has been unlawfully harassed may make an informal complaint, either orally or in writing: (1) to a teacher, other employee, or building administrator; (2) directly to one of the Compliance Officers; and/or (3) to the Superintendent or other District-level employee.

All informal complaints must be reported to one of the Compliance Officers who will either facilitate an informal resolution as described below on his/her own, or appoint another individual to facilitate an informal resolution.

The School District's informal complaint procedure is designed to provide employees, other members of the School District community, or third parties who believe they are being unlawfully harassed with a range of options designed to bring about a resolution of their concerns. Depending upon the nature of the complaint and the wishes of the individual claiming unlawful harassment, informal resolution may involve, but not be limited to, one or more of the following:

- A. Advising the individual about how to communicate the unwelcome nature of the behavior to the alleged harasser.**
- B. Distributing a copy of the anti-harassment policy as a reminder to the individuals in the school building or office where the individual whose behavior is being questioned works or attends.**
- C. If both parties agree, the Compliance Officer may arrange and facilitate a meeting between the individual claiming harassment and the individual accused of harassment to work out a mutual resolution. Such a meeting is not appropriate in circumstances involving sexual violence.**

While there are no set time limits within which an informal complaint must be resolved, the Compliance Officer or designee will exercise his/her authority to attempt to resolve all informal complaints within fifteen (15) business days of receiving the informal complaint. Parties who are dissatisfied with the results of the informal complaint process may proceed to file a formal complaint. And, as stated above, parties may request that the informal process be terminated at any time to move to the formal complaint process.

All materials generated as part of the informal complaint process will be retained by the Compliance Officers in accordance with the Board's records retention policy and/or Student Records policy. (See Policy 8310 and Policy 8330)

Formal Complaint Procedure

If a complaint is not resolved through the informal complaint process, if one of the parties has requested that the informal complaint process be terminated to move to the formal complaint process, or if the individual elects to file a formal complaint initially, the formal complaint process shall be implemented.

An individual who believes s/he has been subjected to offensive conduct/harassment/retaliation hereinafter referred to as the "Complainant", may file a formal complaint, either orally or in writing, with a teacher, principal, the Compliance Officer, Superintendent, or other District employee. Due to the sensitivity surrounding complaints of unlawful harassment and retaliation, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs while the facts are known and potential witnesses are available. If a Complainant informs a teacher, principal, Superintendent, or other District employee, either orally or in writing, about any complaint of harassment or retaliation, that employee must report such information to the Compliance Officer or designee within two (2) business days.

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

All formal complaints must include the following information to the extent it is available: the identity of the individual believed to have engaged in, or be engaging in, offensive conduct/harassment/retaliation; a detailed description of the facts upon which the complaint is based; a list of potential witnesses; and the resolution sought by the Complainant.

If the Complainant is unwilling or unable to provide a written statement including the information set forth above, the Compliance Officer shall ask for such details in an oral interview. Thereafter, the Compliance Officer will prepare a written summary of the oral interview, and the Complainant will be asked to verify the accuracy of the reported charge by signing the document.

Upon receiving a formal complaint, the Compliance Officer will consider whether any action should be taken in the investigatory phase to protect the Complainant from further harassment or retaliation, including, but not limited to, a change of work assignment or schedule for the Complainant and/or the alleged harasser. In making such a determination, the Compliance Officer should consult the Complainant to assess his/her agreement to the proposed action. If the Complainant is unwilling to consent to the proposed change, the Compliance Officer may still take whatever actions s/he deem appropriate in consultation with the Superintendent.

Within two (2) business days of receiving the complaint, the Compliance Officer or a designee will initiate a formal investigation to determine whether the Complainant has been subjected to offensive conduct/harassment/retaliation. A Principal will not conduct an investigation unless directed to do so by the Compliance Officer.

Simultaneously, the Compliance Officer will inform the individual alleged to have engaged in the harassing or retaliatory conduct, hereinafter referred to as the "Respondent", that a complaint has been received. The Respondent will be informed about the nature of the allegations and provided with a copy of any relevant administrative guidelines, including the Board's Anti-Harassment policy. The Respondent must also be informed of the opportunity to submit a written response to the complaint within five (5) business days.

Although certain cases may require additional time, the Compliance Officer or a designee will attempt to complete an investigation into the allegations of harassment/retaliation within fifteen (15) business days of receiving the formal complaint. The investigation will include:

- A. interviews with the Complainant;
- B. interviews with the Respondent;
- C. interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations;
- D. consideration of any documentation or other information presented by the Complainant, Respondent, or any other witness that is reasonably believed to be relevant to the allegations.

At the conclusion of the investigation, the Compliance Officer or the designee shall prepare and deliver a written report to the Superintendent that summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful harassment as provided in Board policy and State and Federal law as to whether the Complainant has been subjected to unlawful harassment. The Compliance Officer's recommendations must be based upon the totality of the circumstances, including the ages and maturity levels of those involved. In determining if discriminatory harassment or retaliation occurred, a preponderance of evidence standard will be used. The Compliance Officer may consult with the Board's legal counsel before finalizing the report to the Superintendent.

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

If the Superintendent requests additional investigation, the Superintendent must specify the additional information that is to be gathered, and such additional investigation must be completed within five (5) business days. At the conclusion of the additional investigation, the Superintendent must issue a final written decision as described above. A Complainant or Respondent who is dissatisfied with the final decision of the Superintendent may appeal through a signed written statement to the Board within five (5) business days of his/her receipt of the Superintendent's final decision.

In an attempt to resolve the complaint, the Board shall meet with the concerned parties and their representatives within twenty (20) business days of the receipt of such an appeal. A copy of the Board's disposition of the appeal shall be sent to each concerned party within ten (10) business days of this meeting. The decision of the Board will be final.

The Board reserves the right to investigate and resolve a complaint or report of unlawful harassment/retaliation regardless of whether the member of the School District community or third party alleging the unlawful harassment/retaliation pursues the complaint. The Board also reserves the right to have the formal complaint investigation conducted by an external person in accordance with this policy or in such other manner as deemed appropriate by the Board or its designee.

Privacy/Confidentiality

The School District **will employ all reasonable efforts to protect the rights** of the Complainant, the individual(s) against whom the complaint is filed, and the witnesses as much as possible, consistent with the Board's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations. All records generated under the terms of this policy and related administrative guidelines shall be maintained as confidential to the extent permitted by law. **Confidentiality, however, cannot be guaranteed. All Complainants proceeding through the formal investigation process will be advised that their identities may be disclosed to the Respondent.**

During the course of a formal investigation, the Compliance Officer or his/her designee will instruct all members of the School District community and third parties who are interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of a harassment investigation is expected not to disclose any information that s/he learns or that s/he provides during the course of the investigation.

All public records created as a part of an investigation of a complaint of harassment will be maintained by the Compliance Officer in accordance with the School Board's records retention policy. Any records that are considered student education records in accordance with the *Family Educational Rights and Privacy Act* or under Ohio's student records law will be maintained in a manner consistent with the provisions of the Federal and State laws.

Sanctions and Monitoring

The Board shall vigorously enforce its prohibitions against unlawful harassment **by taking appropriate action reasonably calculated to stop the harassment and prevent further such harassment.** While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable State law and the terms of the relevant collective bargaining agreement(s). When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter, including the ages and maturity levels of those involved. In those cases where unlawful harassment is not substantiated, the Board may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies, consistent with the terms of the relevant collective bargaining agreement(s).

Where the Board becomes aware that a prior remedial action has been taken against a member of the School District community, all subsequent sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to **end such conduct, prevent its recurrence, and remedy its effect.**

Retaliation

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

Allegations Constituting Criminal Conduct: Child Abuse/Sexual Misconduct

State law requires any school teacher or school employee who knows or suspects that a child with a disability under the age of twenty-one (21) or that a child under the age of eighteen (18) has suffered or faces a threat of suffering a physical or mental wound, disability or condition of a nature that reasonably indicates abuse or neglect of a child to immediately report that knowledge or suspicion to the county children's services agency. If, during the course of a harassment investigation, the Compliance Officer or a designee has reason to believe or suspect that the alleged conduct reasonably indicates abuse or neglect of the Complainant, a report of such knowledge must be made in accordance with State law and Board Policy.

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

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

29 C.F.R. Part 1635

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

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

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

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

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

42 U.S.C. 1983

National School Boards Association Inquiry and Analysis – May 2008

Adopted: 8/24/04

Revised: 5/23/06

Revised: 6/08/10

Revised:

**The Public Schools
Youngstown, Ohio
Office of the Superintendent**

RESOLUTION NO. 223-13

**RESOLUTION TO APPROVE REVISED POLICY ON
ANTI-HARASSMENT
(STUDENTS)**

WHEREAS, the Board of Education of the Youngstown City School District adopted a policy to maintain an education and work environment which is free from all forms of unlawful harassment, including sexual harassment; and

WHEREAS, the Board has caused its policy to be reviewed by the Superintendent and his designees to obtain a recommendation as to updating such policy with revisions as are necessary and appropriate; and

WHEREAS, the Superintendent has recommended that the Board adopt the revised policy entitled “Anti-Harassment” at Section 5517 of its Policy Manual.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Education of the Youngstown City School District hereby ratifies, approves and adopts the revised policy entitled “Anti-Harassment,” a copy of which is attached hereto and made a part hereof by this reference.

Ms. Haire-Ellis moved, seconded by Mr. Beachum that the foregoing resolution be adopted.

Ayes: Kimble, Mahone, Atkinson, Beachum, Haire-Ellis, Hanni

Nays: None

Motion carried.

10/22/13

**BOARD OF EDUCATION
YOUNGSTOWN CITY SCHOOL DISTRICT**

**STUDENTS
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ANTI-HARASSMENT

General Policy Statement

It is the policy of the Board of Education to maintain an education and work environment **that** is free from all forms of unlawful harassment, including sexual harassment. This commitment applies to all School District operations, programs, and activities. All students, administrators, teachers, staff, and all other school personnel share responsibility for avoiding, discouraging, and reporting any form of unlawful harassment. This policy applies to unlawful conduct occurring on school property, or at another location if such conduct occurs during an activity sponsored by the Board.

The Board will vigorously enforce its prohibition against **discriminatory** harassment based on race, color, national origin, **sex (including sexual orientation and transgender identity), disability, age (except as authorized by law), religion, ancestry, or genetic information (collectively, "Protected Classes") that are protected by Federal civil rights laws (hereinafter referred to as unlawful harassment)**, and encourages those within the School District community as well as third parties, who feel aggrieved to seek assistance to rectify **such** problems. The Board will investigate all allegations of **unlawful** harassment and in those cases where unlawful harassment is substantiated, the Board will take immediate steps to end the harassment, **prevent its reoccurrence, and remedy its effects**. Individuals who are found to have engaged in unlawful harassment will be subject to appropriate disciplinary action.

For purposes of this policy, "School District community" means students, administrators, and **professional and classified staff, as well as** Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

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

Other Violations of the Anti-Harassment Policy

The Board will also take immediate steps to impose disciplinary action on individuals engaging in any of the following prohibited acts:

- A. Retaliating against a person who has made a report or filed a complaint alleging **unlawful** harassment, or who has participated as a witness in a harassment investigation.
- B. Filing a malicious or knowingly false report or complaint of **unlawful** harassment.
- C. Disregarding, failing to investigate adequately, or delaying investigation of allegations of **unlawful** harassment, when responsibility for reporting and/or investigating harassment charges comprises part of one's supervisory duties.

Definitions

Bullying

Bullying rises to the level of unlawful harassment when one or more persons systematically and chronically inflict physical hurt or psychological distress on one (1) or more students or employees and that bullying is based upon one (1) or more Protected Classes, that is, characteristics that are protected by Federal civil rights laws. It is defined as any unwanted and repeated written, verbal, or physical behavior, including any threatening, insulting, or dehumanizing gesture, by an adult or student, that is severe or pervasive enough to create an intimidating, hostile, or offensive educational or work environment; cause discomfort or humiliation; or unreasonably interfere with the individual's school or work performance or participation; and may involve:

- A. **teasing;**
- B. **threats;**
- C. **intimidation;**
- D. **stalking;**
- E. **cyberstalking;**

- F. cyberbullying;**
- G. physical violence;**
- H. theft;**
- I. sexual, religious, or racial harassment;**
- J. public humiliation; or**
- K. destruction of property.**

Harassment

Harassment means any threatening, insulting, or dehumanizing gesture, use of technology, or written, verbal or physical conduct directed against a student or school employee that:

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

Sexual Harassment

Pursuant to Title VII of the Civil Rights Act of 1964 and Title IX of the Educational Amendments of 1972, "sexual harassment" is defined as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when:

- A. Submission to such conduct is made either implicitly or explicitly a term or condition of an individual's employment, or status in a class, educational program, or activity.**
- B. Submission or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individual.**

- C. Such conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity.

Sexual harassment may involve the behavior of a person of either gender against a person of the same or opposite gender.

Prohibited acts that constitute sexual harassment may take a variety of forms. Examples of the kinds of conduct that may constitute sexual harassment include, but are not limited to:

- A. Unwelcome sexual propositions, invitations, solicitations, and flirtations.
- B. **Unwanted physical and/or sexual contact.**
- C. Threats or insinuations that a person's employment, wages, academic grade, promotion, classroom work or assignments, academic status, participation in athletics or extra-curricular programs or events, or other conditions of employment or education may be adversely affected by not submitting to sexual advances.
- D. Unwelcome verbal expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, jokes or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene telephone calls.
- E. Sexually suggestive objects, pictures, videotapes, audio recordings or literature, placed in the work or educational environment, which may embarrass or offend individuals.
- F. Unwelcome and inappropriate touching, patting, or pinching; obscene gestures.
- G. A pattern of conduct, which can be subtle in nature, that has sexual overtones and is intended to create or has the effect of creating discomfort and/or humiliation to another.

- H. Remarks speculating about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history.
- I. Inappropriate boundary invasions by a District employee or other adult member of the School District community into a student's personal space and personal life.
- J. **Verbal, nonverbal or physical aggression, intimidation, or hostility based on sex or sex-stereotyping that does not involve conduct of a sexual nature.**

Not all behavior with sexual connotations constitutes unlawful sexual harassment. **Sex-based or gender-based conduct** must be sufficiently severe, pervasive, and persistent such that it adversely affects, **limits, or denies** an individual's employment or education, or such that it creates a hostile or abusive employment or educational environment, **or such that it is intended to, or has the effect of, denying or limiting a student's ability to participate in or benefit from the educational program or activities.**

NOTE: Sexual conduct/relationships with students by District employees or any other adult member of the School District community is prohibited, and any teacher, administrator, coach, or other school authority who engages in sexual conduct with a student may also be guilty of the criminal charge of "sexual battery" as set forth in R.C. 2907.03. The issue of consent is irrelevant in regard to such criminal charge and/or with respect to the application of this policy to District employees or other adult members of the School District community.

Race/Color Harassment

Prohibited racial harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's race or color and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's race or color, such as racial slurs, nicknames implying stereotypes, epithets, and/or negative references relative to racial customs.

Religious (Creed) Harassment

Prohibited religious harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's religion or creed and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's religious tradition, clothing, or surnames, and/or involves religious slurs.

National Origin/Ancestry Harassment

Prohibited national origin/**ancestry** harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's national origin **or ancestry** and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's national origin **or ancestry**, such as negative comments regarding customs, manner of speaking, language, surnames, or ethnic slurs.

Disability Harassment

Prohibited disability harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's disability and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's disabling condition, such as negative comments about speech patterns, movement, physical impairments or defects/appearances, or the like.

Reports and Complaints of Harassing Conduct

Students and all other members of the School District community and third parties are encouraged to promptly report incidents of harassing conduct to a **teacher**, administrator, supervisor, or other District official so that the Board may address the conduct before it becomes severe, pervasive, or persistent. **Any teacher, administrator, supervisor, or other District employee or official who receives such a complaint shall file it with the District's Anti-Harassment Compliance Officer at his/her first convenience within two (2) school days.**

Members of the School District community, **which includes students**, or third parties who believe they have been unlawfully harassed are entitled to utilize the Board's complaint process **that is set forth below**. Initiating a complaint, whether formally or informally, will not adversely affect the complaining individual's employment or participation in educational or extra-curricular programs. While there are no time limits for initiating complaints of harassment under this policy, individuals should make every effort to file a complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available.

If, during an investigation of alleged bullying, aggressive behavior and/or harassment in accordance with Policy 5517.01 – Bullying and Other Forms of Aggressive Behavior, the Principal believes that the reported misconduct may have created a hostile work environment and may have constituted unlawful discriminatory harassment based on a Protected Class, the Principal shall report the act of bullying, aggressive behavior and/or harassment to one of the Anti-Harassment Compliance Officers who shall investigate the allegation in accordance with this policy. While the Compliance Officer investigates the allegation, the Principal shall suspend his/her 5517.01 investigation to await the Compliance Officer's written report. The Compliance Officer shall keep the Principal informed of the status of the 5517 investigation and provide him/her with a copy of the resulting written report.

Anti-Harassment Compliance Officers

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

Executive Director of Special Education Youngstown Board of Education 20 West Wood Street P.O. Box 550 Youngstown, Ohio 44501-0550 330-744-6965 330-744-8869 (Fax No.)	Assistant Superintendent of Human Resources Youngstown Board of Education 20 West Wood Street P.O. Box 550 Youngstown, Ohio 44501-0550 330-744-6925 330-744-5295 (Fax No.)
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The names, titles, **and contact information** of these individuals will be published annually, in the parent and staff handbooks, in the School District Annual Report to the public, on the School District's web site, and/or are available upon request from the Superintendent's Office.

The Compliance Officers will be available during regular school/work hours to discuss concerns related to unlawful harassment, to assist students, other members of the District community, and third parties who seek support or advice when informing another individual about "unwelcome" conduct, or to intercede informally on behalf of the student, other member of the School District community or third party in those instances where concerns have not resulted in the filing of a formal complaint and where all parties are in agreement to participate in an informal process.

Compliance Officers shall accept complaints of unlawful harassment directly from any member of the School District community or a visitor to the District, or receive complaints that are initially filed within a school building administrator. Upon receipt of a complaint either directly or through a school building administrator, a Compliance Officer will begin either an informal or formal process (depending on the request of the person alleging the harassment or the nature of the alleged harassment), or the Compliance Officer will designate a specific individual to conduct such a process. In the case of a formal complaint, the Compliance Officer will prepare recommendations for the Superintendent or will oversee the preparation of such recommendations by a designee. All members of the School District community must report incidents of harassment that are reported to them to the Compliance Officer within two (2) business days of learning of the incident.

Any Board employee who directly observes unlawful harassment of a student is obligated, in accordance with this policy, to report such observations to one of the **Compliance Officers within two (2) business days**. Additionally, any Board employee who observes an act of unlawful harassment is expected to intervene to stop the harassment, unless circumstances make such an intervention dangerous, in which case the staff member should immediately notify other Board employees and/or local law enforcement officials, as necessary, to stop the harassment. Thereafter, the **Compliance Officer or designee** must contact the student, if age eighteen (18) or older, or the student's parents if under the age eighteen (18), **within two (2) school days** to advise s/he/them of the Board's intent to investigate the alleged misconduct, including the obligation of the **Compliance Officer** or designee to conduct an investigation following all the procedures outlined for a formal complaint.

Investigation and Complaint Procedure

Any student who believes that s/he has been subjected to unlawful harassment may seek resolution of his/her complaint through either the informal or formal procedures as described below. Further, a process for investigating claims of harassment or retaliation and a process for rendering a decision regarding whether the claim of legally prohibited harassment or retaliation was substantiated are set forth below.

Due to the sensitivity surrounding complaints of unlawful harassment or retaliation, time lines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs while the facts are known and potential witnesses are available. Once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within fifteen (15) business days of the complaint being received).

The informal and formal procedures set forth below are not intended to interfere with the rights of a student to pursue a complaint of unlawful harassment or retaliation with the United States Department of Education Office for Civil Rights.

Informal Complaint Procedure

The goal of the informal complaint procedure is to stop inappropriate behavior and to investigate and facilitate resolution through an informal means, if possible. The informal complaint procedure is provided as a less formal option for a student who believes s/he has been unlawfully harassed or retaliated against. This informal procedure is not required as a precursor to the filing of a formal complaint.

Students who believe that they have been unlawfully harassed may initiate their complaint through this informal complaint process, but are not required to do so. The informal

process is only available in those circumstances where the parties (alleged target of harassment and alleged harasser(s) agree to participate in the informal process.

Students who believe that they have been unlawfully harassed may proceed immediately to the formal complaint process and individuals who seek resolution through the informal procedure may request that the informal process be terminated at any time to move to the formal complaint process.

However, all complaints of harassment involving a District employee or any other adult member of the School District community against a student will be formally investigated. Similarly, any allegations of sexual violence will be formally investigated.

As an initial course of action, if a student feels that s/he is being unlawfully harassed and s/he is able and feels safe doing so, the individual should tell or otherwise inform the harasser that the conduct is unwelcome and must stop. Such direct communication should not be utilized in circumstances involving sexual violence. The complaining individual should address the allegedly harassing conduct as soon after it occurs as possible. The Compliance Officers are available to support and counsel individuals when taking this initial step or to intervene on behalf of the individual if requested to do so. An individual who is uncomfortable or unwilling to inform the harasser of his/her complaint is not prohibited from otherwise filing an informal or a formal complaint. In addition, with regard to certain types of unlawful harassment, such as sexual harassment, the Compliance Officer may advise against the use of the informal complaint process.

A student who believes s/he has been unlawfully harassed may make an informal complaint, either orally or in writing: (1) to a teacher, other employee, or building administrator in the school the student attends; (2) to the Superintendent or other District-level employee; and/or (3) directly to one of the Compliance Officers.

All informal complaints must be reported to one of the Compliance Officers who will either facilitate an informal resolution as described below on his/her own, or appoint another individual to facilitate an informal resolution.

The School District's informal complaint procedure is designed to provide students who believe they are being unlawfully harassed with a range of options designed to bring about a resolution of their concerns. Depending upon the nature of the complaint and the wishes of the student claiming unlawful harassment, informal resolution may involve, but not be limited to, one or more of the following:

- A. Advising the student about how to communicate the unwelcome nature of the behavior to the alleged harasser.**
- B. Distributing a copy of the anti-harassment policy as a reminder to the individuals in the school building or office where the individual whose behavior is being questioned works or attends.**
- C. If both parties agree, the Compliance Officer may arrange and facilitate a meeting between the student claiming harassment and the individual accused of harassment to work out a mutual resolution. Such a meeting is not appropriate in circumstances involving sexual violence.**

While there are no set time limits within which an informal complaint must be resolved, the Compliance Officer or designee will exercise his/her authority to attempt to resolve all informal complaints within fifteen (15) business days of receiving the informal complaint. Parties who are dissatisfied with the results of the informal complaint process may proceed to file a formal complaint. And, as stated above, parties may request that the informal process be terminated at any time to move to the formal complaint process.

All materials generated as part of the informal complaint process will be retained by the Compliance Officers in accordance with the School Board's records retention policy and/or Student records policy. (See Policy 8310 and Policy 8330)

Formal Complaint Procedure

If a complaint is not resolved through the informal complaint process, if one of the parties has requested that the informal complaint process be terminated to move to the formal complaint process, or if the student elects to file a formal complaint initially, the formal complaint process shall be implemented.

A student who believes s/he has been subjected to offensive conduct/harassment/retaliation hereinafter referred to as the "Complainant", may file a formal complaint, either orally or in writing, with a teacher, principal, or other District employee at the student's school, the Compliance Officer, Superintendent, or another District employee who works at another school or at the district level. Due to the sensitivity surrounding complaints of unlawful harassment, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs while the facts are known and potential witnesses are available. If a Complainant informs a teacher, principal, or other District employee at the student's school, Superintendent, or other District employee, either orally or in writing, about any complaint of harassment, that employee must report such information to the Compliance Officer or designee within two (2) business days.

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

All formal complaints must include the following information to the extent it is available: the identity of the individual believed to have engaged in, or be engaging in, offensive conduct/harassment/retaliation; a detailed description of the facts upon which the complaint is based; a list of potential witnesses; and the resolution sought by the Complainant.

If the Complainant is unwilling or unable to provide a written statement including the information set forth above, the Compliance Officer shall ask for such details in an oral interview. Thereafter, the Compliance Officer will prepare a written summary of the oral interview, and the Complainant will be asked to verify the accuracy of the reported charge by signing the document.

Upon receiving a formal complaint, the Compliance Officer will consider whether any action should be taken in the investigatory phase to protect the Complainant from further harassment or retaliation, including, but not limited to, a change of work assignment or schedule for the Complainant and/or the alleged harasser. In making such a determination, the Compliance Officer should consult the Complainant to assess his/her agreement to the proposed action. If the Complainant is unwilling to consent to the proposed change, the Compliance Officer may still take whatever actions s/he deem appropriate in consultation with the Superintendent.

Within two (2) business days of receiving the complaint, the Compliance Officer or a designee will initiate a formal investigation to determine whether the Complainant has been subjected to offensive conduct/harassment/retaliation. A Principal will not conduct an investigation unless directed to do so by the Compliance Officer.

Simultaneously, the Compliance Officer will inform the individual alleged to have engaged in the harassing or retaliatory conduct, hereinafter referred to as the "Respondent", that a complaint has been received. The Respondent will be informed about the nature of the allegations and provided with a copy of any relevant administrative guidelines, including the Board's Anti-Harassment policy. The Respondent must also be informed of the opportunity to submit a written response to the complaint within five (5) business days.

Although certain cases may require additional time, the Compliance Officer or a designee will attempt to complete an investigation into the allegations of harassment/retaliation within fifteen (15) business days of receiving the formal complaint. The investigation will include:

- A. interviews with the Complainant;**
- B. interviews with the Respondent;**

- C. interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations;**
- D. consideration of any documentation or other information presented by the Complainant, Respondent, or any other witness that is reasonably believed to be relevant to the allegations.**

At the conclusion of the investigation, the Compliance Officer or the designee shall prepare and deliver a written report to the Superintendent that summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful harassment as provided in Board policy and State and Federal law as to whether the Complainant has been subjected to unlawful harassment. The Compliance Officer's recommendations must be based upon the totality of the circumstances, including the ages and maturity levels of those involved. In determining if discriminatory harassment or retaliation occurred, a preponderance of evidence standard will be used. The Compliance Officer may consult with the Board's legal counsel before finalizing the report to the Superintendent.

Absent extenuating circumstances, within ten (10) school days of receiving the report of the Compliance Officer or the designee, the Superintendent must either issue a final decision regarding whether the complaint of harassment has been substantiated or request further investigation. A copy of the Superintendent's final decision will be delivered to both the Complainant and the Respondent.

If the Superintendent requests additional investigation, the Superintendent must specify the additional information that is to be gathered, and such additional investigation must be completed within ten (10) school days. At the conclusion of the additional investigation, the Superintendent shall issue a final written decision as described above. A Complainant or Respondent who is dissatisfied with the final decision of the Superintendent may appeal through a signed written statement to the Board within five (5) business days of his/her receipt of the Superintendent's final decision.

In an attempt to resolve the complaint, the Board shall meet with the concerned parties and their representatives within twenty (20) business days of the receipt of such an appeal. A copy of the Board's disposition of the appeal shall be sent to each concerned party within ten (10) business days of this meeting. The decision of the Board will be final.

The Board reserves the right to investigate and resolve a complaint or report of unlawful harassment/retaliation regardless of whether the student alleging the unlawful harassment/retaliation pursues the complaint. The Board also reserves the right to have the formal complaint investigation conducted by an external person in accordance with this policy or in such other manner as deemed appropriate by the Board or its designee.

Privacy/Confidentiality

The School District will employ all reasonable efforts to protect the rights of the Complainant, the individual(s) against whom the complaint is filed, and the witnesses as much as possible, consistent with the Board's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations. All records generated under the terms of this policy and related administrative guidelines shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed. All Complainants proceeding through the formal investigation process will be advised that their identities may be disclosed to the Respondent.

During the course of a formal investigation, the Compliance Officer or his/her designee will instruct all members of the School District community and third parties who are interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of a harassment investigation is expected not to disclose any information that s/he learns or that s/he provides during the course of the investigation.

All records created as a part of an investigation of a complaint of harassment will be maintained by the Compliance Officer in accordance with the Board's records retention policy. Any records that are considered student education records in accordance with the *Family Educational Rights and Privacy Act* or under Ohio's student records law will be maintained in a manner consistent with the provisions of the Federal and State law.

Sanctions and Monitoring

The Board shall vigorously enforce its prohibitions against unlawful harassment **by taking appropriate action reasonably calculated to stop the harassment and prevent further such harassment.** While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable State law and the terms of the relevant collective bargaining agreement(s). When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter, including the ages and maturity levels of those involved. In those cases where unlawful harassment is not substantiated, the Board may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies, consistent with the terms of the relevant collective bargaining agreement(s).

Where the Board becomes aware that a prior remedial action has been taken against a member of the School District community, all subsequent sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to **end** such conduct, **prevent its reoccurrence,** and **remedy its effects.**

Retaliation

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

Allegations Constituting Criminal Conduct: Child Abuse/Sexual Misconduct

State law requires any school teacher or school employee who knows or suspects that a child with a disability under the age of twenty-one (21) or that a child under the age of eighteen (18) has suffered or faces a threat of suffering a physical or mental wound, disability or condition of a nature that reasonably indicates abuse or neglect of a child to immediately report that knowledge or suspicion to the county children's services agency. If, during the course of a harassment investigation, the Compliance Officer or a designee has reason to believe or suspect that the alleged conduct reasonably indicates abuse or neglect of the Complainant, a report of such knowledge must be made in accordance with State law and Board Policy.

State law defines certain contact between a teacher and a student as "sexual battery." If the Compliance Officer or a designee has reason to believe that the Complainant has been the victim of criminal conduct as defined in Ohio's Criminal Code, such knowledge should be immediately reported to local law enforcement.

Any reports made to a county children's services agency or to local law enforcement shall not terminate the Compliance Officer or a designee's obligation and responsibility to continue to investigate a complaint of harassment. While the Compliance Officer or a designee may work cooperatively with outside agencies to conduct concurrent investigations, in no event shall the harassment investigation be inhibited by the involvement of outside agencies without good cause after consultation with the Superintendent.

Allegations Involving Conduct Unbecoming the Teaching Profession/Suspension

The Superintendent will report to the Ohio Department of Education, on forms provided for that purpose, matters of misconduct on the part of licensed professional staff members convicted of sexual battery, and will, in accordance with Policy 8141, suspend such employee from all duties that concern or involve the care, custody, or control of a child during the pendency of any criminal action for which that person has been arrested, summoned and/or indicted in that regard.

Education and Training

In support of this Anti-Harassment Policy, the Board promotes preventative educational measures to create greater awareness of unlawful discriminatory practices. The Superintendent or designee shall provide appropriate information to all members of the School District community related to the implementation of this policy and **shall provide training for District students and staff where appropriate**. All training, **as well as all information, provided** regarding the Board's policy and harassment in general, will be age and content appropriate.

R.C. 4112.02

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

20 U.S.C. 1681 et seq.

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

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

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

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

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

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

42 U.S.C. 1983

National School Boards Association Inquiry and Analysis – May, 2008

Adopted: 8/24/04

Revised: 5/23/06

Revised: 6/08/10

Revised:

**The Public Schools
Youngstown, Ohio
Office of the Superintendent**

RESOLUTION NO. 224-13

**RESOLUTION TO APPROVE REVISED POLICY ON
BULLYING AND OTHER FORMS OF AGGRESSIVE BEHAVIOR**

WHEREAS, the Board of Education of the Youngstown City School District, adopted a policy to provide a safe, positive, productive, and nurturing educational environment for all of its students; and

WHEREAS, the Board prohibits harassment, intimidation, or bullying toward a student, whether by other students, staff, or third parties; and

WHEREAS, the Board has caused its policy to be reviewed by the Superintendent and his designees to obtain a recommendation as to updating such policy with revisions as are necessary and appropriate; and

WHEREAS, the Superintendent has recommended that the Board adopt the revised policy entitled “Bullying and Other Forms of Aggressive Behavior” at Section 5517.01 of its Policy Manual.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Education of the Youngstown City School District hereby ratifies, approves and adopts the revised policy entitled “Bullying and Other Forms of Aggressive Behavior,” a copy of which is attached hereto and made part hereof by this reference.

Ms. Haire-Ellis moved, seconded by Mr. Beachum that the foregoing resolution be adopted.

Ayes: Kimble, Mahone, Atkinson, Beachum, Haire-Ellis, Hanni

Nays: None

Motion carried.

10/22/13

**BOARD OF EDUCATION
YOUNGSTOWN CITY SCHOOL DISTRICT**

**STUDENTS
5517.01/page 1 of 7**

BULLYING AND OTHER FORMS OF AGGRESSIVE BEHAVIOR

The Board of Education is committed to providing a safe, positive, productive, and nurturing educational environment for all of its students. The Board encourages the promotion of positive interpersonal relations between members of the school community.

Harassment, intimidation, or bullying toward a student, whether by other students, staff, or third parties is strictly prohibited and will not be tolerated. This prohibition includes aggressive behavior, physical, verbal, and psychological abuse, and violence within a dating relationship. The Board will not tolerate any gestures, comments, threats, or actions which cause or threaten to cause bodily harm or personal degradation. This policy applies to all activities in the District, including activities on school property, on a school bus, or while enroute to or from school, and those occurring off school property if the student or employee is at any school-sponsored, school-approved or school-related activity or function, such as field trips or athletic events where students are under the school's control, in a school vehicle, or where an employee is engaged in school business.

This policy has been developed in consultation with parents, District employees, volunteers, students, and community members as prescribed in R.C. 3313.666 and the State Board of Education's Model Policy.

Harassment, intimidation, or bullying means:

- A. any intentional written, verbal, electronic, or physical act that a student or group of students exhibits toward another particular student(s) more than once and the behavior both causes mental or physical harm to the other student(s) and is sufficiently severe, persistent, or pervasive that it creates an intimidating, threatening, or abusive educational environment for the other student(s); or
- B. violence within a dating relationship.

"Electronic act" means an act committed through the use of a cellular telephone, computer, pager, personal communication device, or other electronic communication device.

Aggressive behavior is defined as inappropriate conduct that is repeated enough, or serious enough, to negatively impact a student's educational, physical, or emotional well being. This type of behavior is a form of intimidation and harassment, although it need not be based on any of the legally protected characteristics, such as sex, race, color, national origin, marital status, or disability. It would include, but not be limited to, such behaviors as stalking, bullying/cyberbullying, intimidating, menacing, coercion, name calling, taunting, making threats, and hazing.

Harassment, intimidation, or bullying also means cyberbullying through electronically transmitted acts (i.e., internet, e-mail, cellular telephone, personal digital assistance (PDA), or wireless hand-held device) that a student(s) or a group of students exhibits toward another particular student(s) more than once and the behavior both causes mental and physical harm to the other student and is sufficiently severe, persistent, or pervasive that it creates an intimidating, threatening, or abusive educational environment for the other student(s).

Any student or student's parent/guardian who believes s/he has been or is the victim of aggressive behavior should immediately report the situation to the Building Principal or assistant principal, or the Superintendent. The student may also report concerns to teachers and other school staff who will be responsible for notifying the appropriate administrator or Board official. Complaints against the Building Principal should be filed with the Superintendent. Complaints against the Superintendent should be filed with the Board President.

Every student is encouraged, and every staff member is required, to report any situation that they believe to be aggressive behavior directed toward a student. Reports may be made to those identified above.

All complaints about aggressive behavior that may violate this policy shall be promptly investigated. The Building Principal or appropriate administrator shall prepare a written report of the investigation upon completion. Such report shall include findings of fact, a determination of whether acts of harassment, intimidation, and/or bullying were verified, and, when prohibited acts are verified, a recommendation for intervention, including disciplinary action shall be included in the report. Where appropriate, written witness statements shall be attached to the report.

If the investigation finds an instance of harassment, intimidation, and/or bullying/cyberbullying by an electronic act or otherwise, has occurred, it will result in prompt and appropriate remedial and/or disciplinary action. This may include suspension or up to expulsion for students, up to discharge for employees, exclusion for parents, guests, volunteers, and contractors, and removal from any official position and/or a request to resign for Board members. Individuals may also be referred to law enforcement officials.

If, during an investigation of a reported act of harassment, intimidation and/or bullying/cyberbullying, the Principal or appropriate administrator believes that the reported misconduct may have created a hostile learning environment and may have constituted unlawful discriminatory harassment based on a Protected Class, the Principal will report the act of bullying and/or harassment to one of the Anti-Harassment Compliance Officers so that it may be investigated in accordance with the procedures set forth in Policy 5517 - Anti-Harassment.

Retaliation against any person who reports, is thought to have reported, files a complaint, or otherwise participates in an investigation or inquiry concerning allegations of aggressive behavior is prohibited and will not be tolerated. Such retaliation shall be considered a serious violation of Board policy and independent of whether a complaint is substantiated. Suspected retaliation should be reported in the same manner as aggressive behavior. Retaliation may result in disciplinary action as indicated above.

Deliberately making false reports about harassment, intimidation, bullying and/or other aggressive behavior for the purpose of getting someone in trouble is similarly prohibited and will not be tolerated. Deliberately making false reports may result in disciplinary action as indicated above.

If a student or other individual believes there has been aggressive behavior, regardless of whether it fits a particular definition, s/he should report it and allow the administration to determine the appropriate course of action.

The District shall implement intervention strategies (AG 5517.01) to protect a victim or other person from new or additional harassment, intimidation, or bullying and from retaliation following such a report.

This policy shall not be interpreted to infringe upon the First Amendment rights of students (i.e., to prohibit a reasoned and civil exchange of opinions, or debate, that is conducted at appropriate times and places during the school day and is protected by State or Federal law).

The complainant shall be notified of the findings of the investigation, and as appropriate, that remedial action has been taken. If after investigation, acts of bullying against a specific student are verified, the Building Director or appropriate administrator shall notify the custodial parent/guardian of the victim of such finding. In providing such notification care shall be taken to respect the statutory privacy rights of the perpetrator of such harassment, intimidation, and/or bullying.

If after investigation, acts of harassment, intimidation, and/or bullying by a specific student are verified, the Building Director or appropriate administrator shall notify in writing the custodial parent/guardian of the perpetrator of that finding. If disciplinary consequences are imposed against such student, a description of such discipline shall be included in the notification.

Complaints

Students and/or their parents/guardians may file reports regarding suspected harassment, intimidation, or bullying. Such reports shall be reasonably specific including person(s) involved, number of times and places of the alleged conduct, the target of suspected harassment, intimidation, and/or bullying, and the names of any potential student or staff witnesses. Such reports may be filed with any school staff member or administrator, and they shall be promptly forwarded to the Building Director for review, investigation, and action.

Students, parents/guardians, and school personnel may make informal or anonymous complaints of conduct that they consider to be harassment, intimidation, and/or bullying by verbal report to a teacher, school administrator, or other school personnel. Such complaints shall be reasonably specific including person(s) involved, number of times and places of the alleged conduct, the target of suspected harassment, intimidation, and/or bullying, and the names of any potential student or staff witnesses. A school staff member or administrator who receives an informal or anonymous complaint shall promptly document the complaint in writing, including the information provided. This written report shall be promptly forwarded by the school staff member and/or administrator to the Building Director for review, investigation, and appropriate action.

Individuals who make informal complaints as provided above may request that their name be maintained in confidence by the school staff member(s) and administrator(s) who receive the complaint. Anonymous complaints shall be reviewed and reasonable action shall be taken to address the situation, to the extent such action may be taken that (1) does not disclose the source of the complaint, and (2) is consistent with the due process rights of the student(s) alleged to have committed acts of harassment, intimidation, and/or bullying.

When an individual making an informal complaint has requested anonymity, the investigation of such complaint shall be limited as is appropriate in view of the anonymity of the complaint. Such limitation of investigation may include restricting action to a simple review of the complaint subject to receipt of further information and/or the withdrawal by the complaining student of the condition that his/her report be anonymous.

Privacy/Confidentiality

The School District will respect the privacy of the complainant, the individual(s) against whom the complaint is filed, and the witnesses as much as possible, consistent with the Board's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations. All records generated under this policy and its related administrative guidelines shall be maintained as confidential to the extent permitted by law.

Reporting Requirement

At least semi-annually, the Superintendent shall provide to the President of the Board a written summary of all reported incidents and post the summary on the District web site (if one exists). The list shall be limited to the number of verified acts of harassment, intimidation, and/or bullying, whether in the classroom, on school property, to and from school, or at school-sponsored events.

Allegations of criminal misconduct and suspected child abuse will be reported to the appropriate law enforcement agency and/or to Child Protective Services in accordance with statute. District personnel shall cooperate with investigations by such agencies.

Immunity

A School District employee, student, or volunteer shall be individually immune from liability in a civil action for damages arising from reporting an incident in accordance with this policy and R.C. 3313.666 if that person reports an incident of harassment, intimidation, and/or bullying promptly, in good faith, and in compliance with the procedures specified in this policy. Such immunity from liability shall not apply to an employee, student, or volunteer determined to have made an intentionally false report about harassment, intimidation, and/or bullying.

Notification

Notice of this policy will be **annually** circulated to and posted in conspicuous locations in all school buildings and departments within the District and discussed with students, as well as incorporated into the teacher, student, and parent/guardian handbooks. At least once each school year a written statement describing the policy and consequences for violations of the policy shall be sent to each student's custodial parent or guardian. The statement may be sent with regular student report cards or may be delivered electronically.

The policy and an explanation of the seriousness of bullying by electronic means shall be made available to students in the District and to their custodial parents or guardians.

State and Federal rights posters on discrimination and harassment shall also be posted at each building. All new hires will be required to review and sign off on this policy and the related complaint procedures.

Education and Training

In support of this policy, the Board promotes preventative educational measures to create greater awareness of aggressive behavior, including bullying and violence within a dating relationship. The Superintendent or designee shall provide appropriate training to all members of the School District community related to the implementation of this policy and its accompanying administrative guidelines. All training regarding the Board's policy and administrative guidelines about aggressive behavior and bullying in general, will be age and content appropriate.

Annually, the District shall provide all students enrolled in the District with age-appropriate instruction regarding the Board's policy, including a written or verbal discussion of the consequences for violations of the policy to the extent that State or Federal funds are appropriated for this purpose.

Students in grades seven (7) through twelve (12) shall receive age-appropriate instruction in dating violence prevention education, including instruction in recognizing dating violence warning signs and characteristics of healthy relationships. Parents, who submit a written request to the Building Director to examine the dating violence prevention instruction materials used in the school, will be afforded an opportunity to review the materials within a reasonable period of time.

The District shall provide training, workshops, and/or courses on this policy for school employees and volunteers who have direct contact with students, to the extent that State or Federal funds are appropriated for these purposes. Time spent by school staff in these training programs shall apply toward mandated continuing education requirements.

In accordance with Board Policy 8462, the Superintendent shall include a review of this policy on bullying and other forms of harassment in the required training in the prevention of child abuse, violence, and substance abuse and the promotion of positive youth development.

The Superintendent shall develop administrative guidelines to implement this policy. Guidelines shall include reporting and investigative procedures, as needed. The complaint procedure established by the Superintendent shall be followed.

R.C. 3313.666, 3313.667
State Board of Education Model Policy (2007)

Adopted: 8/24/04
Revised: 3/28/06
Revised: 6/10/08
Revised: 2/14/11
Revised: 6/26/12
Revised:

**The Public Schools
Youngstown, Ohio
Office of the Superintendent**

RESOLUTION NO. 225-13

**RESOLUTION TO APPROVE REVISED POLICY ON
SCHOOL CALENDAR**

WHEREAS, the Board of Education of the Youngstown City School District, pursuant to R.C. 3313.602, 3313.48, 3313.62, 3313.63, 3317.01(B), and 3313.482, adopted a policy recognizing that the preparation of a calendar for the instructional program of the schools is necessary for orderly educational planning and for the efficient operation of the District; and

WHEREAS, the Board has caused its policy to be reviewed by the Superintendent and his designees to obtain a recommendation as to updating such policy with revisions as are necessary and appropriate; and

WHEREAS, the Superintendent has recommended that the Board adopt the revised policy entitled "School Calendar" at Section 8210 of its Policy Manual.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Education of the Youngstown City School District hereby ratifies, approves and adopts the revised policy entitled "School Calendar," a copy of which is attached hereto and made a part hereof by this reference.

Ms. Haire-Ellis moved, seconded by Mr. Beachum that the foregoing resolution be adopted.

Ayes: Kimble, Mahone, Atkinson, Beachum, Haire-Ellis, Hanni

Nays: None

Motion carried.

10/22/13

**BOARD OF EDUCATION
YOUNGSTOWN CITY SCHOOL DISTRICT**

**OPERATIONS
8210/page 1 of 2**

SCHOOL CALENDAR

The Board of Education recognizes that the preparation of a calendar for the instructional program of the schools is necessary for orderly educational planning and for the efficient operation of the District.

The Board shall determine annually the total number of **hours** when the schools will be in session for instructional purposes **with students in attendance - including scheduled classes, supervised activities and approved education options**. **When a recommending school calendar to the Board for its consideration and approval, the Superintendent shall analyze and address the factors identified in AG 8210.**

At least thirty (30) days prior to adopting a school calendar, the Board shall hold a public hearing on the school calendar, addressing topics that include, but are not limited to, the total number of hours in a school year, length of school day, and beginning and end dates of instruction. "School day" means the time during a calendar day that a school is open for instruction pursuant to the Board-adopted schedule.

When establishing the school calendar, the Board requires that an observance be scheduled each year on or about Veterans Day to convey the meaning and significance of that day to all students and staff. The observance shall be at least one (1) hour, or, in schools that schedule class periods of less than one (1) hour, at least one (1) standard class period. The Board will determine the specific activities that constitute the observance in each school in the District after consultation with the school administrators.

While the Superintendent may close schools due to disease, epidemic, hazardous weather conditions, law enforcement emergencies, damage to a school building, utility failure, or inoperability of school buses or other equipment needed for school operations (collectively, "a calamity"), the schools nevertheless must be in session with students in attendance for at least the minimum number of hours required by Ohio law.

A regularly-scheduled school day that is reduced in length by no more than two (2) hours due to hazardous weather conditions may be counted as a full school day for the purpose of meeting the minimum number of school **hours**.

Prior to August 1st of each year, the Board may submit to the Ohio Department of Education a plan to require students to access and complete classroom lessons posted on the District's web portal or web-site in order to make up hours in that school year on which it is necessary to close school due to a calamity. The maximum number of hours that may be made up in this manner is the number of hours that are the equivalent to three (3) school days. The plan must include the written consent of the teachers' union, and address all of the requirement set forth in R.C. 3313.482. The plan may also include distribution of "blizzard bags," which are paper copies of the lessons posted online.

The school calendar and the number of **hours** of student instruction shall be consistent with the provisions of the collective bargaining agreements between the District and its employees.

R.C. 3313.602, 3313.48, 3313.62, 3313.63, 3317.01 (B), 3313.482

Adopted: 8/24/04

Revised: 3/24/09

Revised: 6/8/10

Revised: 10/11/11

Revised: 2/12/13

Revised:

DEPARTMENT OF HUMAN RESOURCES

**The Public Schools
Youngstown, Ohio
Office of the Superintendent**

**RESOLUTION NO. 226-13
CONTINUING CONTRACTS**

WHEREAS, the persons whose name are listed below has served as teachers in the Youngstown City School District for at least three of the last five years, including the school year 2012-2013; and

WHEREAS, these teachers hold a five year license, professional or permanent certificate valid for the school year 2013-2014; and

WHEREAS, these teachers are, therefore, eligible for a continuing contract in accordance with Section 3319.11 R.C.; and

WHEREAS, it is the recommendation of the Superintendent of Schools, that these teachers be re-employed for the school year 2013-2014;

NOW THEREFORE, BE IT RESOLVED that these teachers be granted continuing contracts for the school year 2013-2014 as indicated and in accordance with the provision of the salary schedule:

M.L. King Elementary

Amy M. Glaser
Christine L. Williams

P.C. Bunn Elementary

Erica L. Sofranko

Chaney Campus

Michelle R. Payich

NOTE: The foregoing listing of schools for programs is not intended to assure any teacher the same assignment.

Ms. Haire-Ellis moved, seconded by Mr. Beachum that the foregoing resolution be adopted.

Ayes: Kimble, Mahone, Atkinson, Beachum, Haire-Ellis, Hanni

Nays: None

Motion carried.

10/22/13

**The Public Schools
Youngstown, Ohio
Office of the Superintendent**

RESOLUTION NO. 227-13

**CERTIFICATED PERSONNEL
APPOINTMENTS**

RESOLVED, based upon the recommendation of the Assistant Superintendent of the Human Resources, the following appointments are being accepted for the 2013-14 school year:

APPOINTMENTS

Youngstown City Resident Educator Program-Teacher Mentor Fund 001/Fund 440 - \$750.00 stipend for the 2013-2014 school year:

Kalliope Sdregas

Nurse Fund 401 – St. Joseph the Provider – to be used on an as needed basis, not to exceed 25 hours per week, not to exceed \$7,000.00 for the 2013-2014 school year:

Anne Zelina

Tutors Fund 001 – Discovery Program - \$22.35 per hour for YEA Members, \$15.50 per hour for Non-YEA Members, not to exceed 25 hours per week:

Judy Nespeca

Tutors Fund 001 – P.C. Bunn Elementary - \$22.35 per hour for YEA Members, \$15.50 per hour for Non-YEA Members, not to exceed 25 hours per week:

Judith Wolfgang

Tutors Fund 001 – McGuffey Elementary - \$22.35 per hour for YEA Members, \$15.50 per hour for Non-YEA Members, not to exceed 25 hours per week:

Lindsay Morris

Tutors Fund 001 – Rayen Early College - \$22.35 per hour for YEA Members, \$15.50 per hour for Non-YEA Members, not to exceed 25 hours per week:

Heidi Schlegel

Resolution No. 227-13 continued

Tutors Fund 001 – Williamson Elementary - \$22.35 per hour for YEA Members, \$15.50 per hour for Non-YEA Members, not to exceed 25 hours per week:

Vernon Brown	Denise Johnson
Jolisa Collier-Lee	Miriam Lee
Carrine Esenwein	

Youngstown After School Alliance Program Fund 019 – Harding Elementary - \$30.13 per hour for Administrator, not to exceed 25 hours per week:

Susan Koulianos

Youngstown After School Alliance Program Fund 599 – M.L. King Elementary - \$10.00 per hour for Non-YEA Member, not to exceed 25 hours per week:

Rebecca Santiago

Youngstown After School Alliance Program Fund 599 - Rayen Early College - \$22.35 per hour for YEA Members, \$10.00 per hour for Non-YEA Members, not to exceed 25 hours per week:

Mechelle Barnett	Teacher	\$22.35/hr	<i>Eff. 10/9/13</i>
LaTrece Jackson	Activity Leader	\$10.00/hr	

Youngstown After School Alliance Program Fund 599 - Chaney Campus - \$22.35 per hour for YEA Members, not to exceed 25 hours per week:

Michelle Payich	Teacher
Lori Yanacos-Clark	Teacher

Winter Sports Supplemental Contract Fund 001 - Percentages are based upon teacher's base salary per YEA Agreement:

East High School 7-12

Claude Bentley	Asst. Boys Basketball Coach	\$3,735.63 (12.5%)
Jonathan Bentley	Asst. Boys Basketball Coach	\$3,735.63 (12.5%)
Amber-Jeanae Brodrick	Asst. Girls Basketball Coach	\$3,735.63 (12.5%)
Mark Cherol	7th/8th Gr. Boys Basketball Coach	\$3,735.63 (12.5%)
Brandon Dotson	Asst. Boys Basketball Coach	\$3,735.63 (12.5%)
Jasmine Handy	Asst. Girls Basketball Coach	\$3,735.63 (12.5%)
Marcus Higgs	7th/8th Gr. Boys Basketball Coach	\$3,735.63 (12.5%)
Eric Jones	Asst. Girls Basketball Coach	\$3,735.63 (12.5%)
Levon Lamb	Head Girls Basketball Coach	\$7,471.25 (25%)

**The Public Schools
Youngstown, Ohio
Office of the Superintendent**

RESOLUTION NO. 228-13

**CERTIFICATED PERSONNEL
APPOINTMENT**

RESOLVED, based upon the recommendation of the Assistant Superintendent of the Human Resources, the following appointment of utility specialized is being accepted for the 2013-14 school year:

<u>Utility Specialized Services</u>	<u>Fund No.</u>	<u>Allocation</u>	<u>District-wide Utility</u>
Martha Bruce	572	\$9,000.00	Adopt-A-School

Ms. Haire-Ellis moved, seconded by Mr. Beachum that the foregoing resolution be adopted.

Ayes: Kimble, Mahone, Atkinson, Beachum, Haire-Ellis, Hanni

Nays: None

Motion carried.

10/22/13

**The Public Schools
Youngstown, Ohio
Office of the Superintendent**

RESOLUTION NO. 229-13

**CERTIFICATED PERSONNEL
APPOINTMENTS FOR CHOFFIN ADULT CAREER TECHNICAL PROGRAM**

RESOLVED, based on the recommendation of the Assistant Superintendent of Human Resources, the following individuals are being recommended to be used on an “as needed basis” not to exceed 25 hours for the 2013-14 school year:

Allied Health Pharmacy Tech - Certificated Instructors - (Fund 012) \$22.05 per hour - not to exceed 25 hours per week:

Samuel Pedaline

Sharon Pedaline

Ms. Haire-Ellis moved, seconded by Mr. Beachum that the foregoing resolution be adopted.

Ayes: Kimble, Mahone, Atkinson, Beachum, Haire-Ellis, Hanni

Nays: None

Motion carried.

10/22/13

**The Public Schools
Youngstown, Ohio
Office of the Superintendent**

RESOLUTION NO. 230-13

**CERTIFICATED PERSONNEL
APPOINTMENTS OF SUBSTITUTE TEACHERS**

RESOLVED, based upon the recommendation of the Assistant Superintendent of Human Resources, the following appointments of substitute teachers are being recommended for the 2013-14 school year:

APPOINTMENTS

Substitute Teachers (Fund 001) - To be used on an “as needed basis” not to exceed 25 hours per week as follows:

- \$ 70.00 a day or from day 1 to day 10 if in the same position
- \$ 75.00 a day from day 11 to day 60 if in the same position
- \$162.42 a day from day 61 to day 184 if in the same position

John Beitzel
Tonya Bunkley
Mignon Green
Jeremy Haddle
Anthony Koulianos

Brandon Martin
Esther Morgan
Linda Rupchak
Nelson Schiavi

Ms. Haire-Ellis moved, seconded by Mr. Beachum that the foregoing resolution be adopted.

Ayes: Kimble, Mahone, Atkinson, Beachum, Haire-Ellis, Hanni
Nays: None

Motion carried.

10/22/13

**The Public Schools
Youngstown, Ohio
Office of the Superintendent**

RESOLUTION NO. 233-13

**CERTIFICATED PERSONNEL
LEAVE OF ABSENCE AND RESIGNATION**

RESOLVED, based upon the recommendation of the Assistant Superintendent of the Human Resources, the following leaves of absence and resignation are being accepted for the 2013-14 school year:

LEAVES OF ABSENCE

Pursuant to the agreement with Youngstown Education Association (YEA) and the Board of Education, the following leaves of absence will be concurrent with the provisions of the Family and Medical Leave Act (FMLA) of 1993:

Christina J. Long	Medical	Eff. 09/30/13 through 12/20/13
Todd A. Mills	Medical	Eff. 10/16/13 through 06/09/14

RESIGNATION

Accountant

Brian D. Rella	Other Employment	Eff. 10/31/13
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Ms. Haire-Ellis moved, seconded by Mr. Beachum that the foregoing resolution be adopted.

Ayes: Kimble, Mahone, Atkinson, Beachum, Haire-Ellis, Hanni

Nays: None

Motion carried.

10/22/13

**The Public Schools
Youngstown, Ohio
Office of the Superintendent**

RESOLUTION NO. 234-13

**CLASSIFIED PERSONNEL
APPOINTMENTS AND LEAVE OF ABSENCE**

RESOLVED, based upon the recommendation of the Assistant Superintendent of Human Resources, the following appointments and leave of absence are being accepted for the 2013-14 school year:

APPOINTMENTS

Educational Assistant (Fund-001) Full-time at an hourly rate of \$11.72 per hour:

Crucita Gonzalez

Substitute Cook Helper (Fund-006) \$7.85 per hour; to be used on an “as needed” basis, not to exceed 25 hours per week:

Deborah Gallinella

Substitute Educational Assistant (Fund-001) \$7.85 per hour; to be used on an “as needed” basis, not to exceed 25 hours per week:

Yalonda Blackshear

Substitute Nurse - School/Programs (Fund 001) - \$11.00 per hour; to be used on an “as needed” basis, not to exceed 25 hours per week:

Cheryl Reid

Substitute Secretary (Fund-001) \$8.32 per hour; to be used on an “as needed” basis, not to exceed 25 hours per week:

Jasmine Smith

LEAVE OF ABSENCE

8 hour custodial helper

Linda Brown

FMLA

Eff. 9/23/13-2/4/14

Ms. Haire-Ellis moved, seconded by Mr. Beachum that the foregoing resolution be adopted.

Ayes: Kimble, Mahone, Atkinson, Beachum, Haire-Ellis, Hanni

Nays: None

Motion carried.

10/22/13

**The Public Schools
Youngstown, Ohio
Board of Education**

Addendum

RESOLUTION NO. 235-13

**RESOLUTION TO APPROVE GOALS AND
EXPECTATIONS OF THE SUPERINTENDENT FY2013-2014**

WHEREAS, the Board of Education of the Youngstown City School District, has adopted a policy regarding the employment of the Superintendent; and

WHEREAS, the Board has approved the goals and expectations of the Superintendent for the 2013-2014 school year.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Education of the Youngstown City School District hereby ratifies, approves, and adopts the Goals and Expectations of the Superintendent, a copy which is attached hereto and made a part hereof by this reference.

Ms. Haire-Ellis moved, seconded by Mr. Beachum that the foregoing resolution be adopted.

Ayes: Kimble, Mahone, Atkinson, Beachum, Haire-Ellis, Hanni

Nays: None

Motion carried.

10/22/13

**The Public Schools
Youngstown, Ohio
Board of Education**

RESOLUTION NO. 236-13

**RESOLUTION TO RESCIND
APPOINTMENT OF MANAGER OF ROUTING**

WHEREAS, the Board of Education passed on October 8, 2013, Resolution No. 212-13 to appoint Regina Williams as Routing Manager; and

WHEREAS, the Board of Education wishes to give all qualified applicants an opportunity to apply for the position;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Education rescind the resolution appointing Regina Williams to the position, Manager of Routing.

Ms. Haire-Ellis moved, seconded by Mr. Beachum that the foregoing resolution be adopted.

Ayes: Kimble, Mahone, Atkinson, Beachum, Haire-Ellis, Hanni

Nays: None

Motion carried.

10/22/13

ADJOURNMENT

There being no further business requiring board action at this time, Mr. Beachum moved that the meeting adjourn. Ms. Kimble seconded the motion, and upon voice vote all board members voted yes. Mr. Atkinson announced the meeting adjourned at 7:01 p.m.

President

Treasurer