## 248.1. ANTI-DISCRIMINATION AND HARASSMENT

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<th>Section</th>
<th>Description</th>
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<td>1. Purpose</td>
<td>The Board strives to provide a safe, positive learning climate for students in the schools. Therefore, it shall be the policy of the district: to continually strive to maintain an educational environment in which discrimination and harassment are not tolerated; to prevent and eliminate prohibited discrimination and harassment; to encourage positive student interactions and understanding and the right to associate freely with other students or groups; and to encourage students who believe they have been the victims of prohibited discrimination or harassment to promptly report such incidents to designated employees.</td>
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<td>Accordingly, the Board prohibits all forms of unlawful discrimination of students, including harassment, based on race, color, national origin, sex, and disability, by any member of the school community;</td>
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<td>20 U.S.C. Sec. 1681 et seq</td>
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<td>The Board further prohibits discrimination, including harassment, based on association with other students of the protected classifications or groups representing such protected classifications, by any member of the school community;</td>
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<td>42 U.S.C. Sec. 12101 et seq</td>
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<td>The Board further prohibits retaliation or reprisals against any person who makes a good faith complaint of prohibited discrimination or harassment by any member of the school community; and</td>
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<td>29 U.S.C. Sec. 794</td>
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<td>The Board further prohibits knowingly making false reports of discrimination or harassment.</td>
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<td>43 P.S. Sec. 951 et seq</td>
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<td>The Board recognizes various legitimate expression interests may be implicated in an anti-discrimination and harassment policy and that the offensiveness of a particular expression as perceived by some students, standing alone, is not a legally sufficient basis to establish prohibited discrimination or harassment. The Board does not intend this policy to chill freedom of expression, but instead attempts to balance legitimate speech and expression interests with its obligation to provide a safe and effective educational environment.</td>
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In furtherance of this policy, the Board directs that complaints of discrimination or harassment shall be investigated promptly. Confidentiality of all parties shall be maintained, consistent with the district’s legal and investigative obligations.

The Board further assures and hereby directs that effective corrective action shall be taken as appropriate, including steps to remedy discriminatory effects and to prevent recurrence or retaliation.

3. Definitions

Prohibited Conduct

1. Harassment prohibited by this policy includes any of the following.

   a. Bias Harassment - Unwelcome expressive or physical conduct by any member of the school community relating to a student’s sex, race, color, religion, national origin, age or disability when the conduct is so severe, pervasive and objectively offensive that it adversely affects a student’s ability to participate in or benefit from an educational program or activity, or substantially interferes with a student’s educational performance. Such harassment includes by its nature what is known as “hostile environment” discrimination.

   b. Quid Pro Quo Discrimination/Harassment - No school personnel reasonably believed by the student to hold a position of authority or some manner of control over the student, whether real or perceived, shall explicitly or implicitly condition a student’s participation in an educational program or activity or base an educational decision on the student’s submission to unwelcome sexual advances, requests for sexual favors, or other verbal, nonverbal, or physical conduct of a sexual nature. Quid pro quo discrimination/harassment is equally unlawful whether the student resists and suffers the threatened harm or submits and, thus, avoids the threatened harm. This statement herein is not intended to in any way limit the applicability of any statutes, including those relating to voluntary or involuntary sex acts or consent, or of any Board policy.

   c. Criminal Harassment - Conduct by a member of the school community when, with intent to harass, annoy or alarm a student, the person follows a student in or about common areas; subjects or threatens to subject a student to unwelcome physical contact; or behaves in a manner which alarms or seriously annoys a student and that serves no legitimate purpose, is also prohibited and may be reported as harassment as provided herein.
d. **Physical Harassment** - Non-expressive, physically harassing conduct that simply interferes with a student’s education, whether based on a protected characteristic or not, is prohibited and may be reported as harassment as provided herein.

e. **Association Harassment** - Expressive or physical conduct, directed at a person’s association with any other person or any lawful group commonly associated with or presenting the protected characteristics, whether actual or perceived, of sex, race, color, religion, national origin, or disability is prohibited and may be reported as harassment as provided herein.

f. **Retaliation Harassment** - It is a separate and distinct violation of this policy for any member of the school community to retaliate against any person who reports alleged harassment, any person who testifies, assists, or participates in an investigation, proceeding, or hearing relating to such harassment. It is possible that an alleged harasser may be found to have violated this anti-retaliation provision even if the underlying complaint of harassment is not found to be a violation of this policy. Retaliation includes, but is not limited to, any form of intimidation, reprisal, or harassment and may be redressed through application of the same reporting, investigation, and enforcement procedures as for harassment.

2. **Bias Discrimination** –

   a. The district shall not, on the basis of sex, race, color, religion, national origin, disability, or association with any person presenting such protected characteristics, exclude any student from participation in, deny any student the benefits of, or otherwise subject any student to discrimination under any educational program or activity, including athletics.

   b. No school personnel, in providing any aid, service, or benefit, whether directly or through contract or other arrangement, shall not:

      1) Treat one student differently from another in determining whether such student satisfies any requirement or condition for the provision of such aid, benefit, or service,

      2) Provide different aids, benefits, or services or provide aid, benefit, or service in a different manner,

      3) Deny any student any such aid, benefit or service,
4) Subject any student to separate or different rules of behavior, sanctions, or other treatment relating to such aid, benefit, or service,

5) Afford an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded to others, unless necessary to provide a qualified disabled person with aid, benefit, or services that are as effective to obtain the same result, to gain the same benefit, or to reach the same level of achievement as provided to others,

6) Aid or perpetuate discrimination by providing significant assistance to any agency, organization, or person that discriminates, on the basis of a protected characteristic,

7) Otherwise limit any student in the enjoyment of any right, privilege, advantage, or opportunity, on the basis of sex, race, color, religion, national origin, age, disability, or association with any person presenting such protected characteristics.

The above statements of prohibited conduct are in addition to or in supplement of any other non-discrimination policies of the district.

3. **False Report** - A person who knowingly makes a false report may be subject to the same action that the district may take against any other individual who violates this policy. The term “false report” refers only to those made in bad faith and does not include a complaint that could not be corroborated or which did not rise to the level of unlawful harassment.

4. Lewd, vulgar, and or indecent expressive or physical conduct is prohibited, whether or not the conduct amounts to harassment.

5. Harassment/discrimination based on sex may be committed by either males or females, and may occur regardless of the sex of the harasser or the victim.

Unless the context indicates otherwise, and except as specifically defined herein, the terms harass, harassing, and harassment as used in this policy shall be given their common meaning.

1. **Civil Rights Coordinator** is the person designated:

   a. To coordinate efforts to comply with various civil rights and discrimination laws.
b. To be the primary contact for inquiries about this policy.

c. To be the custodian of records of complaints and investigations.

d. To oversee the investigative process.

e. To assess the training needs of district staff, including building principals or designated investigators, and students in connection with dissemination, comprehension, and compliance with this policy.

f. To track all complaints.

g. The Civil Rights Coordinator is responsible to monitor the implementation of nondiscrimination procedures in the following areas:


2) Training - Provision of training for students and staff to identify and alleviate problems of discrimination.

3) Student Access - Review of programs, activities and practices to ensure that all students have equal access and are not segregated except when permissible by law or regulation.

4) District Support - Assurance that like aspects of the school program receive like support as to staffing and compensation, facilities, equipment, and related areas.

5) Student Evaluation - Review of tests, procedures, and guidance and counseling materials for stereotyping and discrimination.

2. As prescribed in the attached internal guidelines, the Investigator shall be responsible to complete the following duties when receiving a complaint of discrimination:

a. Inform the student or third party of the right to file a complaint and the complaint procedure.

b. Inform the complainant that s/he may be accompanied by a parent/guardian during all steps of the complaint procedure.
c. Notify the complainant and the accused of the progress of the investigation at appropriate stages of the procedure.

d. Conduct interviews of the complainant, respondent and any witnesses.

e. Draft findings in the form of a report to the interested parties, Civil Rights Coordinator and Superintendent.

3. **Expressive or physical conduct** includes, by way of example, but is not limited to, spoken or written communication, gestures, depictions, and pictures.

4. **School Community** includes any one or combination of students, school employees (including teachers, staff, and administrators), independent contractors, school visitors, school volunteers, all others who enjoy the use of district facilities and programs, and anyone engaged in business with the district. Any prohibited harassment addressed in this policy may be committed by any individuals, or combination of individuals, of the school community.

5. **School Personnel** includes the school community, except for students.

6. **Severe, pervasive and objectively offensive** is considered in the totality of the circumstances under which the alleged harassment occurred and is considered from both a subjective and objective perspective.

   a. Factors to consider when determining the nature of the discrimination/harassment in this regard include, but are not limited to:

      1) The ages of the accused and the student, including simple chronological age, age disparity, developmental age or maturity, and the ability of the student to perceive, and the degree of perception, of the nature of the conduct.

      2) The relationship between the student and the accused.

      3) The frequency; duration, and intensity (one (1) outrageous incident may be sufficient) of the conduct.

      4) The number of persons involved.

      5) Whether the conduct was physically threatening or humiliating.
6) The manner of conduct alleged, such as expressive conduct, physical conduct, direct discrimination (for example exclusion based on protected characteristic), or combination thereof.

7) The location and context of conduct.

8) Any previous complaints from or about the same individuals as well as previous similar complaints in the same school.

9) The degree of interference and disruption, both to the student specifically and to the educational environment generally.

b. Where expressive conduct is involved, consideration of the time, manner, and place of the conduct must be considered, including but not limited to:

1) Whether the expressive conduct would reasonably be viewed as school sanctioned, such as when expressed in a school newspaper or school assembly.

2) The degree of ability to escape the conduct, such as in a classroom, or in the hallway or a free time.

3) The relative ages and abilities of the accused and the student to understand and perceive the meanings of the expressive conduct as well as the nature of the forum in which expressed, such as during an exchange of political view or in an unsupervised setting with multiple harassers, or in elementary versus high school.

4) The degree with which the expressive conduct disrupts the educational environment.

5) The nature of the conduct, such as a request for sexual favors or classroom analysis of sexuality in literature.

7. Unwelcome - Conduct to which a student submitted, acquiesced, failed to complain about, or even previously participated in, does not thereby mean the conduct was welcomed or meaningfully consensual. For example, the Board always considers inappropriate any illegal sexual conduct between adult school personnel and minors, and even “consensual” sexual relationships between adult school personnel and secondary students are presumptively always inappropriate. Whether conduct was unwelcomed, like so much of the consideration of harassment/discrimination is determined on the unique facts of each complaint.
The Board further directs that the school community shall be responsible for maintaining an educational environment free from prohibited discrimination and harassment.

District Action

If after appropriate investigation the district determines that a complaint of discrimination or harassment is founded and violates this policy, the district shall take prompt, corrective action to ensure that such conduct ceases and will not recur.

Notification

The district shall annually inform the school community as well as parents/guardians of this policy against discrimination and harassment and of the discrimination/harassment grievance procedures, by means of:

1. Distribution of written policy.
2. Publication in handbooks.
3. Presentation by staff to students.
4. Posting of notice in prominent locations.

4. Delegation of Responsibility

Such notice shall include the name, mailing address, and telephone number of the Civil Rights Officer as well as the mailing address and telephone number of the U.S. Department of Education, Office for Civil Rights. The Civil Rights Coordinator identified in this policy is:

Director of Human Resources
Spring-Ford Area School District
857 South Lewis Road
Royersford, PA 19468
### References:

- **School Code** – 24 P.S. Sec. 1310
- **State Board of Education Regulations** – 22 PA Code Sec. 4.4, 12.1, 12.4, 15.1 et seq.
- **Unfair Educational Practices** – 24 P.S. Sec. 5004
- **Pennsylvania Human Relations Act** – 43 P.S. Sec. 951 et seq.
- **No Child Left Behind Act** – 20 U.S.C. Sec. 6321
- **Section 504 of the Rehabilitation Act** – 29 U.S.C. Sec. 794
- **Americans With Disabilities Act** – 42 U.S.C. Sec. 12101 et seq.
- **Federal Anti-Discrimination and Civil Rights Laws** –
  - 20 U.S.C. Sec. 1681 et seq. (Title IX)
  - 42 U.S.C. Sec. 2000d et seq. (Title VI)
- **Federal Anti-Discrimination and Civil Rights Regulations** –
  - 28 CFR Part 35, Part 41
  - 34 CFR Part 100, Part 104, Part 106, Part 110
- **Harassment Regulations and Guidelines**
  - Harassment – 18 Pa. C.S.A. Sec. 2709
  - Code of Federal Regulations – 29 CFR Sec. 1604.11(a), 1606.8(a)
- **Board Policy** – 806, 701, 906