Fayette County Public Schools

HARASSMENT/DISCRIMINATION COMPLAINT PROCEDURE

“It’s About Kids”

Fayette County Public Schools
Civil Rights Compliance Officer
701 East Main Street
Lexington, Kentucky 40502
(859) 381-4318
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HARASSMENT/DISCRIMINATION COMPLAINT PROCEDURE
(Reference: Policies 03.162, 03.262, 09.42811)

Section 1:

The Fayette County Public School (FCPS) District shall provide a learning and working environment free from harassment/discrimination. The FCPS District is governed by federal, state, and FCPS anti-harassment/discrimination laws and acts. To that end, these procedures provide a mechanism of redress for students, parents/guardians, and employees to identify barriers to a harassment/discrimination-free learning and working environment. The following complaint procedure is provided as an avenue for the expeditious processing of complaints toward the elimination of unlawful acts of harassment/discrimination.

Section 2: Scope

These procedures shall govern all compliance proceedings for students, parents/guardians, and employees of FCPS if they believe that an unlawful act of harassment/discrimination has occurred due to an individual’s race, creed, color, national or ethnic origin, age, religion, sex, political affiliation, veteran status, or disability with regard to placement, treatment, admission, or access to learning or employment in FCPS programs or activities.

Alleged retaliation, harassment, or intimidation due to an individual’s filing of a complaint or participating in an investigation, proceeding, or hearing regarding a claim of harassment/discrimination shall be prohibited.

Section 3: Definitions

**Allegation** means an incident(s) that the Complainant believes constitutes an unlawful form of harassment/discrimination.

**Agency** means Fayette County Board of Education.

**Complainant** is the person who files a complaint based on alleged harassment/discrimination.

**Complaint** is an allegation of harassment/discrimination on the basis of race, creed, color, national or ethnic origin, age, religion, sex, political affiliation, veteran status, or disability, or alleged retaliation, harassment, or intimidation due to participation in an investigation, proceeding, or hearing regarding a claim of harassment/discrimination. Any student, parent, or employee may file a complaint.

**Day** means a work day (Monday through Friday).

**Discrimination** means making a distinction in treatment of people due race, creed, color, national or ethnic origin, age, religion, sex, political affiliation, veteran status, or disability.

**Employee** means any person employed by the Fayette County Board of Education.
**Individual with Disability** means (1) a person who has a physical or mental impairment that substantially limits one or more major life activities, (2) a person with a record of a physical or mental impairment that substantially limits one or more major life activities*, and (3) a person who is regarded as having a physical or mental impairment that substantially limits** one or more major life activities.

*Major life activities include functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. This list is not an exhaustive list of all major life activities. Instead, it is representative of the types of activities that are major life activities.

**Substantially limits means unable to perform or significantly restricted in performing a major life activity that the average person in the general population can perform.

**Respondent** means the person answering the complaint.

**Religion** means all aspects of religious observance and practice, as well as belief, unless a Supervisor/Principal demonstrates that he/she is unable to reasonably accommodate an employee’s or student’s religious observance or practice without undue hardship on the FCPS District.

**Sexual Harassment** is defined as unwelcome sexual advances, requests for sexual favors, other verbal and/or physical behaviors of a sexual nature, and the use of symbols which creates a climate that adversely affects the work environment or educational process.

**Student** shall mean any individual enrolled in the Fayette County Public Schools.

**Supervisor** is defined as an employee’s immediate Supervisor, School Principal, Director, or Superintendent.

**Section 4: Representation**

a. The Complainant, Respondent or any individual involved under these procedures are entitled to be accompanied, represented, and advised by a representative of their choice throughout all stages of the complaint process. Nothing contained therein shall be construed to require any representative to be an attorney at law nor as requiring the FCPS District to pay for such representation.

b. The FCPS District likewise may be so represented.

**Section 5: Confidentiality**

Information regarding an investigation of alleged harassment/discrimination shall be kept confidential to the extent possible. **Individuals involved in the investigation shall not discuss information regarding the complaint outside the investigation process.**

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Section 6: Informal Resolution

a. Many problems can be solved by an informal meeting. Complainants are encouraged to discuss their complaints in a prompt manner. Employees with a complaint are encouraged to first discuss it with their Supervisor with the objective of resolving the matter promptly and informally. Students and parents/guardians with a complaint are encouraged to first discuss it with their Principal with the objective of resolving the matter promptly and informally.

b. The Complainant and the Supervisor/Principal shall meet concerning the complaint with the objective of arriving at a mutually satisfactory resolution. At the conference, the Supervisor/Principal shall inform the Complainant of the Board policy on harassment/discrimination complaints. The Complainant should expect a decision at the end of the informal meeting(s), when possible, but no later than five (5) days.

c. If the matter is not resolved informally to the satisfaction of the Complainant, then within five (5) days of the informal decision, the Complainant may file a formal written complaint and submit it to:

   Civil Rights Compliance Officer
   Fayette County Public Schools
   701 East Main Street
   Lexington, KY 40502

   Necessary forms for filing may be obtained from any Fayette County public school, from a Supervisor/Principal, from the Civil Rights Compliance Officer by calling 381-4318 during normal business hours, or at fcps.net.

d. All persons submitting complaints shall be given or mailed a copy of these procedures.

Section 7: Formal Resolution

a. The Complainant may file a written complaint with the Civil Rights Compliance Officer. If an informal resolution has been sought, the written complaint shall be filed within five (5) days of the disposition at the informal level. A complaint must contain a signed statement from the person claiming to be aggrieved. This statement must be sufficiently precise to identify the aggrieved individual and the department or school and, where applicable, the identity of any individuals against whom the allegations are made. The statement shall describe specifically the action(s) or practice(s) that forms the basis of the complaint. The complaint must also contain a telephone number and address where the Complainant or the representative can be contacted. Formal complaints must be submitted on the appropriate Harassment/Discrimination Complaint form (Form B-employee, Form C-student).

b. The Civil Rights Compliance Officer shall conduct a complete and fair investigation of the complaint in a timely manner. Should the investigation continue beyond 20 work days, the Civil Rights Compliance Officer will notify the Complainant of the anticipated date that the investigation will be completed.
Section 8: Dismissal of Complaints

The Civil Rights Compliance Officer shall dismiss a complaint or a portion of a complaint:

1. that fails to state a claim under Section 2;

2. that fails to comply with the applicable time limits contained in Sections 6 and 7, unless the Civil Rights Compliance Officer determines that due to extenuating circumstances, the time limit should be extended;

3. that is the basis of a pending civil action in a Federal or State Court, or an action filed with the Human Rights Commission/Equal Employment Opportunity Commission in which the Complainant is a party, or that was the basis of a civil action decided by a Federal or State Court or the Human Rights Commission/Equal Employment Opportunity Commission, in which the Complainant was a party;

4. that is moot or alleges that a proposal to take an action or other preliminary step is discriminatory;

5. where the Complainant cannot be located, provided that reasonable efforts have been made to locate the Complainant and the Complainant has not responded within 15 days to a notice of proposed dismissal sent to his/her last known address; or

6. where the Civil Rights Compliance Officer has provided the Complainant with a request to provide relevant information or otherwise proceed with the complaint, and the Complainant has failed to respond to the request or the Complainant’s response does not address the request.

Section 9: Investigation of Complaints

a. The following procedures apply:

1. The Complainant, department, school, or any FCPS employee or students shall produce such documentary and testimonial evidence as the Civil Rights Compliance Officer deems necessary. Statements of witnesses may be required to be made under oath or affirmation.

2. A Respondent, whether identified at the time a formal complaint is filed or during the investigation, must be given an opportunity to respond to all allegations made against him/her. In this respect, the Civil Rights Compliance Officer should interview and receive information from the Respondent as often as may be necessary to ensure that the Respondent has an opportunity to respond to all the allegations.

b. The Civil Rights Compliance Officer has authority to investigate written harassment/discrimination complaints. The Superintendent may designate other investigators as warranted. If possible, the Civil Rights Compliance Officer will facilitate the resolution of the complaint at any stage in the proceedings. If the Complainant and Respondent cannot agree on resolution, the
Civil Rights Compliance Officer will prepare a written report of the investigation, which will include the following:

1. A clear statement of the allegations of the complaint and remedy sought by the Complainant.
2. A statement of the facts as contended by the Respondent and any other witnesses.
3. A statement of the facts as found by the Civil Rights Compliance Officer and identification of evidence to support each fact.
4. A list of all witnesses interviewed and documents reviewed during the investigation.
5. A narrative describing any attempts to resolve the complaint.
6. A conclusionary statement as to whether the allegations in the complaint are meritorious.
7. Recommendations to rectify the situation.

Section 10: Appeal of Decisions

Appeal of the Civil Rights Compliance Officer’s Decision

1. Within five (5) days after receipt of the Civil Rights Compliance Officer’s written report, either the Complainant or Respondent may appeal any part of the findings and corrective actions to the Superintendent by filing a written appeal from the Civil Rights Compliance Officer’s decision (see Attachment D). The appeal shall briefly state the reasons for the appeal.

2. The Superintendent shall review the previously presented information and administrative decisions and conduct any necessary meetings and investigations in order to render a fair and impartial decision.

3. The Superintendent shall issue a written decision within five (5) days after receipt of the appeal from the Civil Rights Compliance Officer’s decision. The Superintendent’s decision shall be final. Copies of the final decision shall be sent to all appropriate parties.
Harassment/ Discrimination Complaint Checklist

The following checklist should be followed for the filing of a complaint alleging harassment/discrimination, using the Fayette County Public Schools’ harassment/discrimination complaint procedure. This checklist is provided to facilitate understanding of the complaint process.

**Informal Resolution (Not Mandatory -- May Begin with Formal Resolution Below)**

- 1. Discuss the complaint with Supervisor/Principal, with the purpose of resolving the issue.

- 2. Should the informal resolution be unsatisfactory in resolving the issue, then within five (5) days of the informal resolution process, file a formal written complaint with:

  Civil Rights Compliance Officer  
  Fayette County Public Schools  
  701 East Main Street  
  Lexington, KY  40502

Necessary forms for filing may be obtained from any Fayette County Public School, from a Supervisor/Principal, from the Civil Rights Compliance Officer, or at fcps.net.

**Formal Resolution**

- 1. Complainant should submit a formal written complaint on the Harassment/ Discrimination Complaint Form (Form B-employee, Form C-student).

- 2. The Civil Rights Compliance Officer shall be empowered to investigate all written complaints and take all necessary action to avoid delay and maintain order in the proceedings.

- 3. The Civil Rights Compliance Officer may hold a conference to resolve the issue(s).

- 4. The Civil Rights Compliance Officer may interview witnesses as part of the fact-finding process.

- 5. The Civil Rights Compliance Officer may facilitate the resolution of the complaint at any stage of the proceedings.

- 6. The Civil Rights Compliance Officer will send a written finding to the Complainant and the Respondent.
**Employee Harassment/Discrimination Complaint**

This form provides the opportunity for an employee to report alleged incidents of harassment/discrimination and to secure an equitable, prompt, and appropriate resolution.

Mail or deliver this form to:
Civil Rights Compliance Officer
701 East Main Street
Lexington, Kentucky 40502

To be completed by Civil Rights Compliance Officer:

Date Received:_____________________
Case Number:_____________________

### Employee Information

| Name:________________________________________ | Home Telephone No.:__________________ |
| Home Address:_______________________________________________________________________ |  |
| Work Location:_______________________________________ | Position Held:__________________ |
| Work Address:_______________________________________________________________________ |  |
| Supervisor:___________________________________________ | Work Telephone No.:____________ |

### Type of Alleged Harassment/Discrimination

Please check:
- Race  
- Creed  
- Color  
- National/Ethnic Origin  
- Age  
- Religion  
- Sex  
- Political Affiliation  
- Veteran Status  
- Disability

### Statement of Complaint (Use additional sheet(s) if necessary)

Identify the harassment/discrimination that you allege has occurred. Be complete, and use full names/titles, dates, exact location(s), and specific occurrence(s), if appropriate.

____________________________________________________________________________________________________

____________________________________________________________________________________________________

____________________________________________________________________________________________________

Date(s) harassment/discrimination occurred: Earliest: _______________ Latest: _______________

Previous steps taken to STOP the harassment/discrimination:__________________________________________

____________________________________________________________________________________________________

Was the Informal Resolution process used prior to filing this Complaint?  ☐ Yes  ☐ No

What results are you seeking by filing this complaint?____________________________________________________

____________________________________________________________________________________________________

Have you filed this complaint with any other governmental agency?  ☐ Yes  ☐ No
If yes, specify:  ☐ Federal Court  ☐ State Court  ☐ HRC/EEOC  ☐ Other:_____________________

Signature:___________________________________________ Date:________________________
# Student Harassment/Discrimination Complaint

This form provides the opportunity for a student or parent to report alleged incidents of harassment/discrimination and to secure an equitable, prompt, and appropriate resolution.

Mail or deliver this form to:
Civil Rights Compliance Officer
701 East Main Street
Lexington, Kentucky  40502

To be completed by Civil Rights Compliance Officer:
Date Received:_____________________
Case Number:_____________________

<table>
<thead>
<tr>
<th>Student Information</th>
<th>Student’s I.D. No.:____________________</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name:</td>
<td>-----------------------------------------</td>
</tr>
<tr>
<td>(Last) (First) (Middle Initial)</td>
<td></td>
</tr>
<tr>
<td>Home Address:</td>
<td>(Number and Street) (City) (State) (ZIP)</td>
</tr>
<tr>
<td>Age:</td>
<td>Date of Birth:</td>
</tr>
<tr>
<td>School:</td>
<td>Grade: _____ Homeroom/Classroom:________</td>
</tr>
<tr>
<td>Name of Parent/Guardian:</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Type of Alleged Harassment/Discrimination</th>
</tr>
</thead>
<tbody>
<tr>
<td>Please check:</td>
</tr>
<tr>
<td>☐ Race</td>
</tr>
<tr>
<td>☐ Creed</td>
</tr>
<tr>
<td>☐ Color</td>
</tr>
<tr>
<td>☐ National/Ethnic Origin</td>
</tr>
<tr>
<td>☐ Age</td>
</tr>
<tr>
<td>☐ Religion</td>
</tr>
<tr>
<td>☐ Sex</td>
</tr>
<tr>
<td>☐ Political Affiliation</td>
</tr>
<tr>
<td>☐ Veteran Status</td>
</tr>
<tr>
<td>☐ Disability</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Statement of Complaint (Use additional sheet(s) if necessary)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Identify the harassment/discrimination that you allege has occurred. Be complete, and use full names/titles, dates, exact location(s), and specific occurrence(s), if appropriate.</td>
</tr>
<tr>
<td></td>
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<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>

Date(s) harassment/discrimination occurred:  Earliest: _______________ Latest: _______________

What results are you seeking by filing this complaint?

____________________________________________________________________________________

____________________________________________________________________________________

____________________________________________________________________________________

<table>
<thead>
<tr>
<th>Have you filed this complaint with any other governmental agency?</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Yes ☐ No</td>
</tr>
<tr>
<td>If yes, specify: ☐ Federal Court ☐ State Court ☐ HRC/EEOC ☐ Other:____________________</td>
</tr>
</tbody>
</table>

Signature: ____________________________________________ Date: _______________________

Signature of Parent/Guardian or Student If Over 18 Years Old
Harassment/Discrimination Complaint Appeal

This form provides the opportunity to submit a written appeal to the Superintendent regarding any part of the findings and recommendations rendered as a result of the investigation conducted by the Civil Rights Compliance Officer.

Mail or deliver this form to:
Civil Rights Compliance Officer
701 East Main Street
Lexington, Kentucky 40502

To be completed by Civil Rights Compliance Officer:
Date Received: ____________________
Case Number: ____________________

<table>
<thead>
<tr>
<th>Appeal Information</th>
<th>☐ Employee</th>
<th>☐ Student/Parent/Guardian</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name:</td>
<td>(Last)</td>
<td>(First)</td>
</tr>
<tr>
<td>Home Address:</td>
<td>(Number and Street)</td>
<td>(City)</td>
</tr>
<tr>
<td>Home Telephone No.:</td>
<td>__________________________</td>
<td>Daytime Telephone No.: ____________________</td>
</tr>
<tr>
<td>Name of Student (if applicable):</td>
<td>____________________________________</td>
<td></td>
</tr>
</tbody>
</table>

Statement of Appeal (Use additional sheet(s) if necessary.)

Briefly state your reason(s) for submitting this appeal.

____________________________________________________________________________________________________
____________________________________________________________________________________________________
____________________________________________________________________________________________________
____________________________________________________________________________________________________
____________________________________________________________________________________________________

What results are you seeking by filing this appeal?

____________________________________________________________________________________________________
____________________________________________________________________________________________________
____________________________________________________________________________________________________
____________________________________________________________________________________________________
____________________________________________________________________________________________________

Signature: ___________________________ Date: ____________________

Attach all documents related to this appeal.