

# REGULATION ANNE ARUNDEL COUNTY PUBLIC SCHOOLS

Related Entries: Policy GAGG

Responsible Office: HUMAN RESOURCES

## NON-DISCRIMINATION AND ANTI-HARASSMENT - PERSONNEL

### A. PURPOSE

To establish procedures for providing all employees with a work environment that is free from discrimination and harassment based on a person's membership in a protected class.

### B. BACKGROUND

Anne Arundel County Public Schools (AACPS) is an equal opportunity employer, and prohibits discrimination and harassment on the basis of actual or perceived race, color, religion, national origin, sex, age, marital status, sexual orientation, genetic information, gender identity or disability.

No person shall be subjected to retaliation for opposing any practice deemed to violate this Regulation or Policy GAGG, or participating in any investigations or proceedings established for the enforcement of this Regulation or Policy GAGG.

### C. DEFINITIONS

1. ***Complaint of discrimination or harassment*** - a verbal or written report, made to a supervisor or the EEO Compliance Specialist, in which an applicant for employment or an employee alleges that he/she has been subjected to the prohibited conduct described in this regulation or the accompanying Board Policy GAGG.
2. ***Protected status*** - an applicant or employee's actual or perceived race, color, religion, sex, age, national origin, marital status, sexual orientation, genetic information, gender identity, disability, and/or other protected group characteristic identified in applicable federal, state, and local employment discrimination laws.
3. ***Discrimination*** - decisions and practices based on an individual's protected status that unlawfully affect employment or the compensation, terms, conditions, or privileges on an individual's employment with AACPS.

Discrimination includes, but is not limited to:

- a. decisions, actions, and practices that pertain to recruitment, hiring, work assignments, salary, benefits, working conditions, transfers, performance evaluations, promotions, professional development, discipline, discharge or any other terms, conditions, or privileges of employment;;
  - b. creation of a hostile, intimidating, or offensive work environment based on an employee’s protected status;
  - c. sexual harassment, whereby the benefits of employment are conditioned upon an employee’s submission to or satisfaction of a sexual demand; and/or sexual conduct that creates an abusive or hostile work environment;
  - d. limiting, segregating, or classifying employees or applicants for employment in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the individual's status as an employee because of the employee’s protected status;
  - e. requesting or requiring genetic tests or genetic information as a condition of hiring or determining benefits;
  - f. failing or refusing to make a reasonable accommodation for the known disability of an otherwise qualified employee; or
  - g. harassment of, or discrimination against, an applicant or employee who opposes conduct prohibited by Board Policy GAGG or participates in the complaint, investigation, or reasonable accommodation processes.
4. ***Harassment*** - verbal or physical conduct that has the purpose or effect of unreasonably interfering with employment based on the person’s protected status.

Harassment includes but is not limited to:

- a. Any unwelcome verbal, written, or electronic communication such as, but not limited to, social media and blogs that are related to the work environment; physical conduct regardless of methodology which offends, denigrates, or belittles any individual when that conduct has the purpose or effect of unreasonably interfering with an employee's performance or creating an unreasonably intimidating, hostile, or offensive working environment.

Such conduct includes, but is not limited to, unsolicited derogatory remarks, jokes, demeaning comments or behavior, slurs, mimicking, name calling, graffiti, innuendo, gestures, physical contact, stalking,

threatening, bullying, extorting, or the display or circulation of written materials or pictures.

- b. Harassment on the basis of actual or perceived race or color can include unwelcome communication or physical conduct directed at the characteristics of a person's race or color, such as nicknames emphasizing stereotypes, racial slurs, comments on manner of speaking, and negative references to racial customs, when that conduct has the purpose or effect of unreasonably interfering with an employee's performance or creating an unreasonably intimidating, hostile, or offensive working environment.
- c. Harassment on the basis of religion can include unwelcome communication or physical conduct directed at the characteristics of a person's religion, such as derogatory comments regarding surnames, religious tradition, religious clothing, religious accommodations, religious slurs or graffiti, when that conduct has the purpose or effect of unreasonably interfering with an employee's performance or creating an unreasonably intimidating, hostile, or offensive working environment.
- d. Harassment on the basis of national origin can include unwelcome communication or physical conduct, directed at the characteristics of a person's national origin, such as negative comments regarding surnames, manner of speaking, customs, language, or ethnic slurs, when that conduct has the purpose or effect of unreasonably interfering with an employee's performance or creating an unreasonably intimidating, hostile, or offensive working environment.
- e. Harassment on the basis of sex is defined as any unwelcome sexual advances, requests for sexual favors, or other physical or verbal conduct of a sexual nature when:
  - i. submission to such conduct is made, either explicitly or implicitly, a term or condition of employment;
  - ii. submission to or rejection of such conduct by an employee is used as the basis for employment decisions affecting that employee, or
  - iii. such conduct has the purpose or effect of unreasonably interfering with an employee's performance or creating an intimidating, hostile, or offensive working environment.

Sexual harassment can include sexual gossip or personal comments of a sexual nature, sexually suggestive or foul language, sexual jokes, whistling, spreading rumors or lies of a sexual nature about someone, demanding sexual favors, forcing sexual activity by threat of punishment or offer of employment reward, obscene graffiti, display or sending of pornographic pictures or objects,

offensive touching, pinching, grabbing, kissing, or hugging, or restraining someone's movement in a sexual way.

- f. Harassment based on sexual orientation can include unwelcome communication or physical conduct, directed at the characteristics of a person's sexual orientation, such as slurs, negative name calling and imitating mannerisms, when that conduct has the purpose or effect of unreasonably interfering with an employee's performance or creating an unreasonably intimidating, hostile, or offensive working environment.
  - g. Harassment on the basis of genetic information can include making offensive or derogatory remarks about an applicant or employee's genetic information, or about the genetic information of a relative of the applicant or employee.
  - h. Harassment on the basis of gender identity can include offensive or derogatory remarks made because of the person's non-conformance with sex-stereotypes.
  - i. Harassment on the basis of disability can include unwelcome communication or physical conduct, directed at the characteristics of a person's disabling mental or physical condition, such as imitating a person's manner of speech or movement, making negative references to a person's disability accommodation, or interfering with necessary equipment, when that conduct has the purpose or effect of unreasonably interfering with an employee's performance or creating an unreasonably intimidating, hostile, or offensive working environment.
5. **Retaliation** - an action against an applicant or employee who opposes conduct prohibited by Board Policy GAGG or participates in the complaint, investigation, or reasonable accommodation processes.
6. **Work days** - a day, other than a Saturday, Sunday or legal holiday, on which the central office of AACPS is open for the transaction of business.

#### D. PROCEDURES

1. Internal Complaints of Discrimination or Harassment

An individual who believes that he/she has been the subject of discrimination or harassment, may either:

- a. make a written or verbal report of the allegations to his/her Principal or supervisor, or
- b. make a written or verbal report of the allegations to the EEO Compliance Specialist (in the Division of Human Resources).

Any report of discrimination or harassment, whether written or verbal, should

include the basis for the belief that unlawful discrimination has taken place, the names of the parties involved, the names of any witnesses, and the dates of the alleged discrimination. A verbal or written report of discrimination or harassment, made in this manner, shall be construed as a Complaint.

If the principal or immediate supervisor is the alleged harasser, the employee may report it to that person's supervisor or the EEO Compliance Specialist.

Reports of discrimination or harassment that are made to principals or supervisors must be immediately referred to the EEO Compliance Specialist.

- a. Matters shall be reviewed and a conference with the complaining party shall take place within 20 work days of the initial complaint or as soon as practicable. A preliminary investigation into the allegations may be conducted at the discretion of the EEO Compliance Specialist or at the direction of management.
  - i. A written record of any meeting or discussion and actions taken shall be maintained. All discussions, written communications, records, and proceedings shall be confidential and disclosed only to those with a legitimate need to know. Filing of a complaint or otherwise reporting unlawful harassment shall not reflect upon the individual's status nor shall it affect future employment or work assignments. A complainant's failure to cooperate with the investigation into his /her allegations may result in dismissal of the complaint.
  - ii. The EEO Compliance Specialist shall present the complaint to an internal management team for instructions on whether the complaint requires a full investigation.
  - iii. The Superintendent of Schools or his/her designee, may direct resolution of a complaint prior to an investigation, at their discretion.
  - iv. If a full investigation is deemed appropriate, the matter shall be promptly investigated. If administratively possible, findings shall be complete within 60 work days of the date the investigation began or as early as practicable, and shall be presented to an internal management team for review and resolution of the complaint.
- b. If a full investigation is deemed to be unwarranted, the internal management team shall direct a resolution of the complaint.
- c. Where a complaint is substantiated, an internal management team shall determine appropriate administrative and/or disciplinary action. Disciplinary actions shall be undertaken in accordance with the established AACPS employee discipline process.

- d. Within 30 work days of the internal management team’s final decision regarding resolution of a complaint, the Complainant shall be notified, in writing, whether his/her allegations were substantiated.
  - e. Within 30 work days of the internal management team’s final decision regarding resolution of a complaint, a Respondent shall be notified, in writing, whether the allegations against him/her were substantiated. In the event that the allegations against a Respondent were substantiated, this notification may be provided as part of the AACPS employee discipline process.
  - f. The internal management team shall work with the EEO Compliance Specialist and the Executive Director of Human Resources to fully resolve internal complaints of discrimination.
2. Retaliation: Complaints of retaliation shall be reviewed, investigated and concluded or resolved by the EEO Compliance Specialist using the same timelines as investigations of discrimination or harassment.
- Violations of Policy GAGG and Regulation GAGG-RA constitute employee misconduct.
3. Any employee who violates this Regulation and Policy GAGG shall be subject to appropriate disciplinary actions, which may include counseling, suspension, or termination of employment, depending on the severity of the offense.
  4. The determination made by the internal management team may be appealed to the Superintendent of Schools via written appeal within 10 work days from when the Complainant is notified of the decision.
  5. If the Complainant is not satisfied with the decision of the Superintendent or his/her designee, he/she may appeal to the Board of Education within 30 calendar days pursuant to the procedures set forth in Section 4-205 of the Education Article, Annotated Code of Maryland.
  6. Exhaustion of these procedures is not a prerequisite to the filing of complaints with state or federal agencies.

**Regulation history:** adopted 01/07/15

**Note Previous Regulation History:** 800.31 issued 08/04/93; revised 08/09/02. Replaced by GAGG-RA, issued 04/15/09, revised 09/05/12