

Series 4000: District Employment

4100 Employee Rights and Responsibilities

4104-AG Employment Complaint Procedure

Consistent with Policies 4101, 4102, 4103, and 4104, the Employment Compliance Officer, Superintendent, or Board President or designee must initiate or have initiated an investigation into formal or informal complaints alleging unlawful discrimination, including unlawful sexual harassment, or retaliation. These Administrative Guidelines outline general procedures for an investigation. Title IX investigations should be performed in compliance with Policy 3118.

A. Confidentiality

The investigator may be required to share the complaint with others, including the accused and witnesses, to obtain relevant information to conduct a prompt investigation. The complaint and other investigatory materials may be subject to disclosure in legal proceedings or under state or federal law, regulations, or rules. If the District retains a licensed investigator or an attorney to conduct the investigation, the investigator's notes and report and/or the attorney's work product and attorney-client communications are privileged to the maximum extent permitted by state or federal law unless expressly waived by the Board. Confidentiality cannot be guaranteed.

B. Searches

Searches of public property and private belongings must be conducted consistent with the U.S. and Michigan Constitutions, laws, regulations, rules, Policies, and relevant contracts.

C. Unionized Employees

The investigator will consult collective bargaining agreements when investigating bargaining unit employees. See Policy 4108. An employee who is a witness need not be provided union representation unless required by the applicable collective bargaining agreement.

D. Reports to Law Enforcement or Children's Protective Services

The investigator will consider whether a report must be made under Policy 4202 and state law. Physical assault of a child must be reported to law enforcement and/or Children's Protective Services immediately.

E. Retaliation

The investigator will notify the Complainant(s), Respondent(s), and witnesses that Policy 4101 prohibits unlawful retaliation.

F. False Statements

Individuals who make false statements or deliberate misrepresentations will be subject to discipline up to and including discharge.

G. Interviews

The investigator will interview each witness separately to the extent possible. The investigator is authorized to request a written statement from a witness. The investigator will notify a student's parent/guardian if a student is interviewed. A Respondent will be provided an opportunity to respond to the allegations against him/her and present relevant evidence.

H. Investigation Report

If the investigator determines that an investigation report is necessary, the report may contain the following:

1. Description of the complaint or how the District received the information being investigated.
2. List of witnesses interviewed or who provided written statements.
3. Summary of witness statements, including assessment of witness credibility, if applicable.
4. Summary of all evidence considered.
5. Applicable Policy standards.
6. Factual findings.
7. Application of factual findings to legal analysis, as necessary.
8. Determination whether a Policy violation occurred.

I. Investigation Outcome

The investigator, the appropriate District administrator, or the Board President will notify the Complainant(s) and Respondent(s) in writing of the investigation's outcome. The outcome letter will include the parties' appeal rights.

J. Recordkeeping Protocol

1. A copy of all notes, witness statements, photographs, other evidence, and the investigation report must be retained by the Employment Compliance Officer for the duration of the employee's employment or Board member's term plus six years, regardless of whether those records are kept in another location.

2. A copy of an investigation report substantiating an employee's unprofessional conduct must be retained in the employee's personnel file for the duration of the employee's employment plus 50 years.
3. The above-described records may be retained electronically.

Adoption date: September 13, 2021

Revised date: