

Revised Policies on Harassment, Discrimination and Retaliation

The VSBA has recently updated several sample policies addressing harassment, discrimination and retaliation. The changes to the policies involve both substance and procedure. For example, changes to the substantive portions of the policies include a new prohibition against discrimination on the basis of genetic information which reflects the requirements of the federal statute known as GINA (the Genetic Information Nondiscrimination Act). The revised policies also explicitly recognize that cell phones and the internet may be used to accomplish prohibited conduct.

Changes to the procedural sections of the policies include explicit statements of several things that were previously implicit. For example, the policies now state that any investigation will consider witnesses and evidence from both sides and that the ultimate determination of whether or not prohibited conduct occurred will be based on a "more likely than not" standard.

Several of the changes to these sample policies are based on guidance provided by the federal Office for Civil Rights (OCR), a division of the Department of Education in Dear Colleague letters which address harassment, discrimination and retaliation. Those letters clearly indicate that OCR will aggressively investigate any situation which it believes may constitute prohibited behavior. Those letters may be found at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.html> and <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.html>.

We urge each board to carefully consider the revised policies and to implement any necessary changes in the protocols used in your division. These policies address areas in which it is critical not only to have current, effective policies, but also in which staff must be completely familiar with the policies and ready to implement them every time a situation arises. Many local school boards will want to discuss these changes with their school board attorneys. Your attorney may be able to provide any training necessary to implement the policies.

The updated Policies are:

GB	Equal Employment Opportunity/Nondiscrimination
GB-F	Report of Discrimination
GBA/JFHA	Prohibition Against Harassment and Retaliation
GBA-F/JFHA-F	Report of Harassment
JB	Equal Educational Opportunities/Nondiscrimination
JB-F	Report of Discrimination
JFHA/GBA	Prohibition Against Harassment and Retaliation
JFHA-F/GBA-F	Report of Harassment

If you have any questions about these revised policies, please call Elizabeth Ewing at 434-295-8722.