

**AN ORDINANCE AMENDING CHAPTER 1, ARTICLE 5, SECTION 1-5.9
ENTITLED "FILING A FORMAL COMPLAINT OF DISCRIMINATION;
INVESTIGATION; ACTION BY SUPERINTENDENT; APPEAL" OF THE
POLICIES OF THE SUFFOLK CITY SCHOOL BOARD — SECOND
READING**

BE IT ORDAINED, by the School Board of the City of Suffolk, Virginia that Chapter 1, Article 5, Section 1-5.9 entitled "Filing a Formal Complaint of Discrimination; Investigation; Action by superintendent; Appeal" of the Policies of the Suffolk City School Board, be, and the same is hereby amended as follows:

Section 1-5.9. Filing a Formal Complaint of Discrimination; Investigation; Action by superintendent; Appeal. — A. Any complainant should submit a complaint alleging discrimination as soon as possible to the Compliance Officer or to any other school or school division staff. The complaint shall be submitted within no later than 60 school calendar days of the alleged discrimination. Any complaint submitted beyond 60 calendar days of the alleged acts of discrimination may be dismissed by the School Board at any time upon request from the school superintendent. Should the school superintendent requests dismissal of the complaint because the complainant filed the complaint beyond 60 calendar days of the alleged acts of discrimination, the complainant will be given 5 calendar days from the filing of the superintendent's request for dismissal to provide evidence to the School Board to show that through no fault of the complainant, the complaint could not have been filed within 45 60 calendar days of the alleged acts of discrimination. All complaints of discrimination must be submitted on Suffolk Public Schools claim forms; and all notices required by this policy will be sent to the complainant by Federal Express Next Day. Any employee who has knowledge of conduct which may constitute discrimination shall immediately report such conduct to the Compliance Officer, the employee's supervisor, or to any other school or school division staff. Any employee who receives a complaint under this policy shall immediately forward the complaint to the Compliance Officer.

The complainant should use the "Complaint of Discrimination" form to make a complaint of discrimination. However, oral complaints are also accepted. The complaint should be filed with the school principal, other school or school division staff, or the Compliance Officer. School or school division staff receiving a complaint of discrimination shall forward it to the school principal; who shall immediately forward the complaint of discrimination to the Compliance Officer. Any complaint that involves the Compliance Officer shall be reported to the superintendent. Any complaint that involves the superintendent shall be reported to the School Board Chair.

The complaint and the identity of the complainant, the individual who is the subject of the complaint (if other than the complainant), and the persons allegedly responsible for

the discrimination will not be disclosed except as required by law or policy, as necessary to fully investigate the complaint or as authorized by the complainant.

B. Upon receipt of a report or complaint of discrimination, the Compliance Officer immediately authorizes or undertakes an investigation. The investigation may be conducted by school staff or a third party designated by the school division. The investigation shall be completed as soon as practicable, but not later than ~~15~~ 45 ~~school~~ calendar days after receipt of the complaint of alleged discrimination by the Compliance Officer unless the extension below is exercised. Within ~~3~~ 5 ~~school~~ calendar days of receiving the complaint, the Compliance Officer sends written notice that the complaint has been received to the complainant and the person or persons allegedly responsible for the discrimination.

Also, upon receiving the complaint, the Compliance Officer determines whether interim measures should be taken pending the outcome of the investigation. If the Compliance Officer determines that more than ~~15~~ 45 ~~school~~ calendar days will be required to investigate the complaint, the Compliance Officer will notify the complainant and the person or persons allegedly responsible for the discrimination of the reasons for the extended investigation and of the date by which the investigation is projected to be concluded, which will be no longer than an additional ~~15~~ 60 ~~school~~ calendar days. The investigation may consist of personal interviews with the complainant, the person or persons allegedly responsible for the discrimination, and any others who may have knowledge of the alleged discrimination or the circumstances giving rise to the complaint. The investigation may also include the inspection of any documents or information deemed relevant by the investigator. The complainant and the person or persons allegedly responsible for the discrimination have the right to identify witnesses and other relevant information as well as rebut evidence presented by others. The school division takes necessary steps to protect the complainant and others pending the completion of the investigation.

Whether a particular action or incident constitutes a violation of this policy requires a case by case determination based on all of the facts and circumstances revealed by a complete and thorough investigation.

The Compliance Officer shall issue a written report to the superintendent upon completion of the investigation. If the complaint involves the superintendent, then the report shall be sent to the School Board. The report shall include a determination of whether the allegations are substantiated, whether this policy was violated and recommendations for corrective action, if any. The Compliance Officer's written report, and all written notices sent pursuant to this policy are maintained and distributed in accordance with the Family Educational Rights and Privacy Act and policies of the School Board regarding confidentiality of student records and Regulation 8VAC20-671-360(C) of the Regulations of the Virginia Department of Education regarding confidentiality of employment records. The report shall be issued to the superintendent, the complainant and the accused person or persons allegedly responsible for the discrimination within ~~20~~ 45 ~~school~~ calendar days of receipt of the complaint, unless additional time was utilized

for the investigation in which case the report shall be issued within ~~35 school~~ 60 calendar days of receipt of the complaint.

C. Within ~~40 30 school~~ calendar days of receiving the Compliance Officer's report, the superintendent or superintendent's designee shall issue a decision regarding: (1) whether the complaint was timely filed; ~~(1)~~ (2) whether this policy was violated and, if so ~~(2)~~ (3) what action, if any, will be taken. This decision must be provided in writing to the complainant and the person or persons allegedly responsible for the discrimination. If the superintendent determines that discrimination occurred, the school division takes prompt, appropriate action to address and remedy the harm and prevent any recurrence. Such action may include discipline up to and including recommending that a student be expelled or that an employee be discharged.

D. If the superintendent or designee determines that no discrimination occurred or that the complaint was not timely filed, the complainant may appeal this determination to the School Board within ~~5~~ 10 calendar days of receiving the decision. Notice of appeal must be filed with the superintendent, who shall forward the Compliance Officer's report and any documentation or information deemed relevant by the Compliance Officer during the course of the investigation to the School Board. The School Board shall make a decision within ~~30~~ 60 calendar days of receiving the record. The School Board may require oral or written argument from the complainant, the person or persons allegedly responsible for the discrimination, the superintendent, and any other individual it deems appropriate regarding any issue brought before the School Board. An extension of the 60 calendar day time limit may occur if necessary as determined by the School Board Chair up to an additional 10 calendar days. The decision of the School Board shall be in writing and shall be provided to the complainant and the person or persons allegedly responsible for the discrimination.

If the superintendent or superintendent's designee determines that discrimination occurred and discipline is imposed, the disciplined person (i.e. student or employee) may appeal the disciplinary sanction in accordance with existing School Board policies and regulations. (Adopted: November 10, 1994; Ordinance 22/23-20, Revised/Effective: February 9, 2023)

Legal Authority - Section 504, Rehabilitation Act of 1973; Individuals with Disabilities Education Act of 1990, American with Disabilities Act of 1990; 29 U.S.C § 794, 34 C.F.R § 104.7.

BE IT FURTHER ORDAINED that all phrases, clauses, sentences, paragraphs, subsections, sections and chapters of the School Board's Policy Manual not amended or repealed shall remain in full force and effect.

FIRST READING: October 12, 2023

SECOND READING: _____

EFFECTIVE DATE: _____

TESTE: _____
CLERK

Approved as to form and content:


Wendell M. Waller, Esquire
School Board Attorney