



PORTLAND PUBLIC SCHOOLS

OFFICE OF General Counsel

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Date: May 18, 2021

To: School Board

From: Liz Large, Contracted General Counsel
Mary Kane, Senior Legal Counsel

Subject: Staff Analysis Report to the Board- Policy Revision and Rescission

Policy # and Name: 1.80.020-P Non-Discrimination/Anti-Harassment Policy
4.30.060-P Anti-Harassment Policy
4.30.070-P Teen Dating Violence/Domestic Violence Policy
5.10.030-P Grievance Procedure-Sex Discrimination
5.10.062 Sexual Harassment-Staff to Student
5.10.060-P Workplace Harassment Policy
5.10.064-P Professional Conduct Policy

I. BACKGROUND

There have been a number of recent statutory revisions addressing harassment, including sexual harassment, in the workplace and within the educational setting. As we endeavored to incorporate the new requirements into our policies, we realized that this was an opportune time to organize these policies in a way that may provide ease of use for our students and staff. In some instances, policies were joined where there was overlap in content and focus. Other policies were out of date and had been replaced by other policies that were current with state law. A few policies required only that we update the definition of sexual harassment to align with current law.

II. RELATED POLICIES/BEST PRACTICES

It is best practice to review policies regularly to determine whether they reflect current laws and practices. It is also best practice to provide a clear, concise, and legally compliant schedule of policies that is easily accessible and understandable.

III. ANALYSIS OF SITUATION

Staff conducted a review of the District’s policies focused on discrimination and harassment, including sexual harassment, to ensure that updates to state and federal law were accurately reflected in the policies. During the course of the review, it became apparent that some policies were not compliant with current law and others could be incorporated into a single policy. Below is a guide to the changes staff is suggesting for each policy and the rationale supporting these suggestions.

Policy	Proposed Action	Rationale
1.80.020-P Anti-Harassment/NonDiscrimination Policy	Revise to add retaliation language	ORS 659 and ORS 659A prohibit discrimination and retaliation in the workplace and educational settings.
4.30.060-P Anti-Harassment	Revise and rename. Revision will incorporate parts of Teen Dating Violence Policy and requirements of ORS 342.704 as it relates to students. The amended document will retain the student-centered focus on cyberbullying and abuse but will now also address teen dating violence and other forms of sexual harassment.	Required by ORS 339.356, ORS 339.366, and ORS 342.704
4.30.070-P Teen Dating Violence/Domestic Violence Policy	Rescind. The language from the policy will be incorporated into 4.30.060-P. The process referenced in the policy has already been codified in 4.30.072-AD Title IX Student to Student Sex-Based Discrimination and Harassment .	Required by ORS 339.366
5.10.030-P Grievance Procedure-Sex Discrimination	Rescind. This policy was developed in 1976 to outline Title IX grievance procedures. It is out of date and should be rescinded. Title IX procedure has been incorporated into the Workplace Harassment AD and the Title IX ADs (4.30.072-AD Title IX Student to Student Sex-Based Discrimination and Harassment and X.XX.XXX-AD Staff to staff/student Sex-Based Discrimination and Harassment .)	Title IX regulations were promulgated in August, 2020. This policy does not track the current obligations under Title IX. Because the U.S. Dept of Education has recently announced its intention to revisit and revise these regulations, we determined that the Title IX processes for investigations and appeals should sit in an administrative directive rather than a policy, so that they can be readily amended when the law

		changes..
5.10.060-P Workplace Harassment	Revise to add the additional definition of sexual harassment from ORS 342.704 to the definition found in ORS 659A and ORS 243.	Make compliant with ORS 342.704. Required by ORS 659A and ORS 243.
5.10.062 Sexual Harassment-Staff to Student	Rescind. This policy is out of date and does not comply with the current statute. Pertinent items moved to Professional Conduct & Workplace Harassment policies.	Required by 342.704
5.10.064-P Professional Conduct Policy	Revise and renumber. Revisions to include definition of sexual harassment.	Required by 342.704

IV. FISCAL IMPACT

These changes are not expected to have a material financial impact.

V. COMMUNITY ENGAGEMENT

Because the substantive changes made to the policies were driven by legal compliance, no community engagement occurred in this process.

VI. TIMELINE FOR IMPLEMENTATION/EVALUATION and COMMUNICATION PLAN

Staff has already implemented the statutory provisions in their work around workplace/student harassment. PAT has been provided copies of all of the amended policies prior to the last work group meeting of the Board Policy Committee and once the policies have been approved, General Counsel’s office will work with the Title IX department and Human Resources to finalize processes in conformance with these policies and to include communications to students and staff through the Student Rights and Responsibilities and Employee Handbooks.

VII. STAFF RECOMMENDATION

Staff recommends that the Board accept the revision and rescission recommendations put forward in this report and as approved by the Policy Committee.

I. I have reviewed this staff report and concur with the recommendation to the Board.

Approved by Superintendent Direct Report

Signature

Date

ATTACHMENTS

Redline and clean copies of the following documents:

- 1.80.020-P Non-Discrimination/Anti-Harassment Policy
- 4.30.060-P Anti-Harassment Policy
- 5.10.060-P Workplace Harassment Policy
- 5.10.064-P Professional Conduct Policy

Copies of existing policies recommended for rescission:

- 4.30.070-P Teen Dating Violence/Domestic Violence Policy
- 5.10.030-P Grievance Procedure-Sex Discrimination
- 5.10.062 Sexual Harassment-Staff to Student