

Preparing an Effective Response to Bias and Harassment Complaints

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Black Lives Matter: Adjusting Policies and Practices



Reaction and Response to Racial Bias & Discrimination

2020- 2021 Racial Justice Movement:

- Black@independent school
- Op Eds, blog posts, social media, letters/emails, anonymous complaints describing experience with racism in school (both past and present)
- Parent/legislative opposition to teaching “critical race theory”

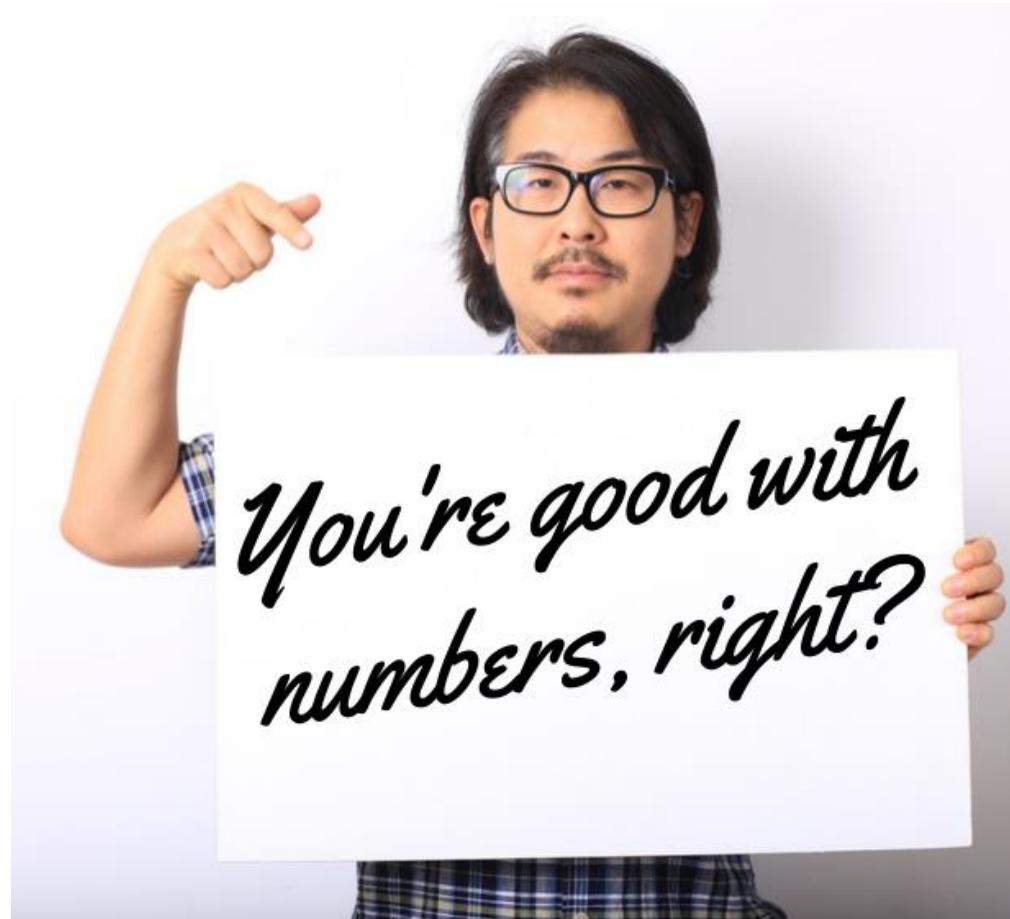
Schools have responded by:

- Making statements about racial injustice
- Hiring DEI staff
- Updating their anti-harassment policies
- Training faculty, staff and students
- Reviewing internal complaint procedures

What's next?

- Climate surveys/assessments
- Restorative resolution practices
- Ongoing work to embed anti-racist principles into policies, practices, and behaviors of the school community – starts with leadership

Implicit Biases and Microaggressions



Implicit Bias

- The term “implicit bias” (also known as “unconscious bias” or “unconscious stereotyping”) refers to the role unconscious cognitive responses play in decision-making.
- Everyone has it.
- How our brains evolved for survival and to store information – “Mental shortcuts” – tying shoes or driving.
- Do not necessarily align with our declared beliefs or reflect stances we would explicitly endorse.
- Implicit bias in all areas – employment, policing, judiciary.
- Good news – it can be unlearned over time – awareness and a desire to be fair.

What are Microaggressions?

- “A statement, action, or incident regarded as an instance of indirect, subtle, or unintentional discrimination against members of a marginalized group such as a racial or ethnic minority or protected class.”
- Often outcome of implicit biases
- Differ from traditional forms of discrimination because they are more subtle, unintentional, based on stereotypes, may even be intended as compliments
- Differ from bullying because they are directed toward members of a marginalized group



Scenario

A group of students are talking in the hallway about sports. One student says to another student, who is Black, “You must play basketball.” When the Black student laughs and says he is a skier, the student says, “Seriously? I could not picture you skiing. You seem much more like a Steph Curry than a Bode Miller to me.” You (an administrator) overhear the conversation and approach the Black student later to ask if he felt comfortable with the conversation. The student responds that he was not offended and that he hears that all the time when people learn that he is a competitive skier.

- *What – if anything – is the implicit bias in the comment?*
- *Would it matter if the student making the comment were Black?*
- *Should you (the administrator overhearing the comment) do anything?*
- *What obligations, if any, does the school have to the students at this point?*

Notice of Biased-Based Incidents

A school might learn of an incident via:

- A student may tell a teacher, guidance counselor, club supervisor, or administrator
- A parent may tell a teacher or administrator
- An employee may observe interactions
- It may be discussed among members of the community or in local media
- Social media posts
- An anonymous report

Addressing Anonymous Complaints and Requests for Confidentiality



Formal Investigation of Complaints

Formal Investigation is a process that results in a determination of whether a school policy has been violated

The duty to investigate *may* arise:

- for formal complaints
- for informal complaints
- when a faculty member/school employee observes or hears about inappropriate comments/conduct
- when there's general knowledge of harassing behavior or a "culture problem" at the school

Informal Resolution

The informal resolution process is a voluntary, structured interaction between involved parties to resolve the allegations without a formal investigation and determination of responsibility

Schools may use informal mechanisms for addressing complaints of bias-based conduct (e.g., mediation, restorative justice) if the parties voluntarily agree to do so, and if the allegations are appropriate for such a resolution

When bias-based incidents become well known within the school community, schools should consider engaging in community-wide approaches to addressing bias

Assigning an Investigator

- Consider seriousness of allegations and training, experience and skillset of investigator
- Bias/conflicts of interest: actual or perceived
- Resources and availability
- Gender/race of investigator
- One investigator? Two?
- External or internal

Addressing Witness Concerns

- What does your policy say about participation?
- How do you seek voluntary participation and cooperation?
- What do you do with witness “retractions”?
- How do you address retaliation concerns?
- How do you handle witness’s request for anonymity?

Effectively Managing Investigation Outcome

- Define Investigation Protocol and Provide Proper Training
- Define Scope of Investigation
- Conduct Prompt, Thorough, Equitable Investigations
- Eliminate Conflict of Interest & Bias
- Credibility Assessments

Questions?

Thank you!

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