

## Regulation 4901-R

### DISCRIMINATION, HARASSMENT AND RETALIATION AND RELATED COMPLAINT PROCEDURES

The District is committed to providing all students, employees and members of the public with a safe and respectful school and workplace environment. The District prohibits discrimination, harassment, or retaliation based on real or perceived race, religion, color, national origin, sex, sexual orientation, gender expression, gender identity, pregnancy, disability, genetic information, veteran status, marital status, age or any other classification protected by applicable laws. This prohibition applies to students, employees, vendors and board members in any aspect of the District's programs, including during school hours, extracurricular activities, District sponsored events, or outside of school hours if the conduct affects the education or working environment.

#### **Definitions of Prohibited Discrimination**

**"Discrimination"** means inequitable treatment based on real or perceived race, religion, color, national origin, sex, sexual orientation, gender expression, gender identity, pregnancy, disability, genetic information, veteran status, marital status, age or any other classification protected by applicable laws ("protected characteristics").

Examples of discrimination include, but are not limited to: refusing to consider or refusing to hire a person for a position or declining to enroll a student in a program based on one or more protected characteristics. Harassment can be a specific form of legally prohibited discrimination.

**"Harassment"** means unwelcome conduct that is severe, persistent or pervasive that is based on one or more protected characteristics. Harassment includes behavior that may not be directed at a particular person, but may instead consist of harassing conduct (e.g. physical, verbal, graphic, or written) that creates a hostile environment for students or employees.

Examples of the kind of conduct that may constitute harassment include, but are not limited to: slurs, epithets, insults, jokes or derogatory comments; verbal or physical abuse; intimidation (physical, verbal or psychological); impeding or blocking a person's movement; unwelcome touching, crude jokes or pictures, discussions of sexual experiences, teasing related to sexual or other protected characteristics, pressure for sexual activity whether written, verbal or through physical gestures, display or sending of pornographic or racially-charged pictures or objects, obscene graffiti, and spreading rumors related to a person's alleged sexual activities. Demeaning comments about a student's ability to excel in a class historically considered a "boy's" or a "girl's" subject may also constitute harassment.

**"Hostile environment"** with respect to students exists when harassment is sufficiently severe, persistent or pervasive to interfere with or limit one or more students' abilities to participate in or benefit from the education program. With respect to District employees, a "hostile environment" exists when harassment is sufficiently severe or pervasive that it alters the conditions of the victim's employment and creates an abusive working environment.

**"Sexual harassment"** is a type of harassment that includes unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature that:

- is made an explicit or implicit term or condition of an employee's employment or a student's ability to obtain an education; or

- is used as a basis for decisions impacting either an employee's employment or a student's education; or
- has the purpose or effect of creating a hostile environment as defined above.

To constitute sexual harassment, the conduct at issue must be unwelcome. Sexual conduct between students and employees will always be considered unwelcome. Sexual harassment also includes conduct such as rape, sexual assault, stalking, and any other form of sexual violence.

Sexual harassment may occur between persons of the same gender or sex.

Nothing in this policy precludes legitimate, nonsexual physical contact to avoid physical harm to persons or property.

"Retaliation" is adverse action that is taken in response to an individual's good-faith complaint or reporting of harassment or discrimination, or good-faith participation in any related investigation. Retaliation may include, but is not limited to, acts of intimidation, threats, harassment, poor performance reviews, and changes in working conditions or other terms and conditions of employment. Any adverse conduct that would discourage a reasonable person from complaining about or reporting harassment or discrimination, or from participating in an investigation, may constitute retaliation.

### **Definitions Relating to Complaint Procedures**

**Complaint:** A verbal or written complaint alleging discrimination or harassment by a District student, employee or contractor based on one or more protected characteristics, or retaliation for making a good faith report of discrimination or harassment or participating in good faith in a harassment or discrimination investigation. It is a violation of this policy to knowingly report false allegations of harassment, retaliation or discrimination or to knowingly provide false information in an investigation in an effort to hamper the District's investigation of any allegation of harassment, retaliation or discrimination. Persons found to have engaged in such conduct will be subject to appropriate discipline.

**Complainant:** Any person enrolled in or employed by the District or a parent, guardian, or member of the public who submits a complaint alleging discrimination, harassment or retaliation. For purposes of this policy, a parent or guardian's complaint shall be handled in the same manner as a student's complaint would be handled.

**Coordinator:** The position currently designated to process complaints and coordinate efforts to comply with and carry out responsibilities under Title VI of the Civil Rights Act, Title IX of the Education Amendments of 1972 (complaints based on sex, pregnancy, gender expression or identity), Title II of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act and any other state and federal laws addressing equal educational and employment opportunity. The contact information for the Coordinator is:

Human Rights and Title IX Coordinator  
3027 South New Haven Avenue  
Tulsa, Oklahoma 74114-6131  
(918) 746-6517

Respondent: The person(s) alleged to be responsible for the alleged discrimination, harassment or retaliation contained in a complaint. The term may be used to designate persons who personally perpetrated the action complained of or those supervisors with responsibility for procedures or practices alleged to be discriminatory in the complaint.

Day: Day means a working day when the District's main administrative offices are open. The calculation of days in complaint processing shall exclude Saturdays, Sundays and legal holidays and any other day the District's offices are not open.

### **Filing a Complaint**

Students who have experienced or witnessed discrimination, harassment or retaliation, or who become aware that others have been or may have been subjected to such conduct, are encouraged to report the matter to any teacher, counselor, or administrator. Any teacher, counselor or administrator who receives such a report shall immediately inform the Coordinator of the allegations, unless the Coordinator is involved in the alleged misconduct, in which case the Deputy Superintendent should be informed of the allegations.

Employees or contractors who have experienced or witnessed harassment, discrimination, or retaliation, or who become aware that others have been or may have been subjected to such conduct, must promptly report the matter to the Coordinator, unless the Coordinator is involved in the alleged misconduct, in which case the employee must report the matter to the Deputy Superintendent. Alternatively, employees may contact their supervisor, who must report the allegations to the Coordinator, or the Deputy Superintendent if applicable. If an employee or contractor brings a complaint to a District supervisor and the matter is not resolved to the employee's satisfaction, the employee must report the matter to the Coordinator or the Deputy Superintendent, as applicable. A principal or supervisor's obligation to report allegations to the Coordinator or Deputy Superintendent, if applicable, exists even if the supervisor is reviewing the alleged discrimination as part of the District's student or employee disciplinary process.

Individuals are encouraged, but not required, to put their complaint in writing. The complaint should describe the nature and date(s) of the alleged discrimination, harassment or retaliation, the names of person(s) responsible (if known) and the relief requested. Complaint forms are not required, but are available from the Coordinator's office. Parents and students may also use the District's online school safety reporting system (TIPS) available on the District's website.

Confidentiality shall be maintained during and after the investigation to the extent reasonably possible; however, if a complainant wishes to remain anonymous, the District's ability to respond to the complaint may be limited.

### **Investigation and Appeal Procedures**

The Coordinator (or Deputy Superintendent, if applicable) shall document all complaints of discrimination, harassment or retaliation received by them. The Coordinator or other investigator approved by the District's legal counsel, will conduct a timely, thorough, reliable, and impartial investigation of the complaint. The District, at its discretion, may take immediate steps, based on the severity of the allegations, to protect the parties involved in the complaint process pending completion of an investigation. As practical, respondents should not communicate directly or indirectly with the complainant regarding the complaint while the investigation is pending.

The investigator will obtain, review and analyze information from the complainant, the respondent, witnesses, and relevant documents and records. The decision of the investigator will be based on a preponderance of evidence standard (i.e., it is more likely than not that the alleged discrimination occurred). The investigator will provide the complainant and respondent a written summary of the investigation decision within 15 days of the receipt of the complaint unless extenuating circumstances exist. This communication will also describe the right to appeal the investigation decision.

Appeals must be made, in writing, to the Deputy Superintendent within 5 days of the issuance of the investigator's decision and notice of appeal rights. If the complaint involves the Deputy Superintendent, the complaint shall be appealed to the Superintendent. The Deputy Superintendent or Superintendent, as applicable, will review the initial investigation and determine if additional investigation is necessary and appropriate. The Deputy Superintendent or Superintendent, as applicable, will issue a written decision within 10 days of receipt of the appeal unless extenuating circumstances exist, and his or her decision is final.

### **General Provisions Relating to Complaints**

At each step in the complaint and investigation procedure, the decision maker will take or recommend the taking of appropriate measures based on the facts, as revealed by the investigation and hearing, taken as a whole, and the totality of the circumstances, such as the nature, extent, context and gravity of the activities or incidents.

The District prohibits retaliation, intimidation, threats, or coercion of any person for opposing discrimination or for participating in the District's discrimination complaint process or making a good faith complaint, testifying, assisting, appealing, or participating in any other discrimination complaint proceeding or hearing. The District will take steps to prevent the alleged perpetrator or anyone else at the District from retaliating against the alleged victim or any person who acts to oppose discrimination or participates in the complaint process. These steps include notifying students and employees that they are protected from retaliation and making sure that victims know how to report future problems. If retaliation occurs, the District will take strong responsive action.

Complaint records will remain confidential, to the extent allowed by law, unless permission is given by the parties involved to release such information. All complaint records will be kept separate from any other records of the District. No complaint record shall be entered in any personnel file unless adverse employment action is taken against an employee.

Individuals seeking outside assistance may submit questions and file complaints alleging discrimination, harassment or retaliation with the Office of Civil Rights. The OCR may be contacted at:

U.S. Department of Education  
Office for Civil Rights  
One Petticoat Lane  
1010 Walnut Street, Suite 320  
Kansas City, MO 64106  
(816) 268-0550  
(816) 268-0599 (Fax)  
(877) 521-2172 (TTY)  
E-mail: [OCR.KansasCity@ed.gov](mailto:OCR.KansasCity@ed.gov)

## **Consequences for Violation of Non-Discrimination Policy**

After all facts and circumstances are reviewed, the District shall take any and all disciplinary actions to respond to and prevent further harassment, discrimination or retaliation. Possible disciplinary or remedial actions include, but are not limited to: education, training and counseling, transfer, and/or suspension of a student, and education, training, counseling, transfer, suspension and/or termination of an employee.

Consequences shall be imposed based on the facts taken as a whole and the totality of the circumstances such as the nature, extent, context and gravity of such activities or incidents. Any employee or student engaging in harassment, discrimination or retaliation will be subject to any and all disciplinary action allowed by school policy and applicable laws.

Adopted: November 1982

Revised: November 1984, April 1992, November 1996, May 2005, June 2005, November 2015, March 2016, February 2018. (*Updated policy 4901 and regulation 4901-R of February 2018 replace 4901, 4901-R, 4902, 4903 and 4903-R.*)