

Davis School District Policy and Procedures

Subject: 11IR-100 Nondiscrimination Policy and Complaint Procedures

Index: Individual Rights and Responsibilities

Revised: January 26, 2016

1. STATEMENT OF NONDISCRIMINATION

The Davis School District (District) does not discriminate on the basis of race, color, religion, national origin, sex, disability, age, or veteran status in its programs and activities. Additionally, the District provides equal access of District facilities to the Boy Scouts and other youth groups. This policy extends to all aspects of the District's education programs, as well as to the use of all District facilities, and participation in all District-sponsored activities.

2. COMPLIANCE OFFICERS

The District Compliance Officers will be responsible for implementing the complaint procedures of this policy.

2.1. Students. Allegations of discriminatory conduct toward a student should be directed as follows:

2.1.1. **Disability**. Complaints alleging general claims of discrimination toward a student based on the student's disability may be directed to the following Compliance Officer:

Midori Clough, District 504 Coordinator
Educational Equity Department
P.O. Box 588
70 East 100 North
Farmington, UT 84025
(801) 402-5180

[a] **DSD Policy 11IR-101 Section 504 Student Accommodations**. The complaint procedures of this policy are not applicable to complaints alleging violations of Section 504 relative to identification, evaluation, or educational placement as detailed in 11IR-101. These complaints must be submitted and processed according to the procedures outlined in that policy.

[b] **Individuals with Disabilities Education Act (IDEA)**. The complaint procedures of this policy are not applicable to complaints alleging violations of the IDEA. IDEA State Complaints and requests for Due Process Hearings must be submitted according to [Utah Special Education Rules](#).

2.1.2. **Gender in Athletic Programs**. Complaints alleging discriminatory conduct in athletic programs in violation of Title IX may be directed to the following Compliance Officer:

Tim Best, Healthy Lifestyles Coordinator
Curriculum & Instruction Department
P.O. Box 588
70 East 100 North
Farmington, UT 84025
(801) 402-7850

2.1.3. **Race, Color, National Origin, Religion, or Gender in other than Athletic Programs**. Complaints alleging discriminatory conduct against students, parents

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of students, and visitors relative to race, color, national origin, religion, or gender in other than athletic programs may be directed to the following Compliance Officer:

Bernardo Villar, Director of Educational Equity
Kendell Building
P.O. Box 588
70 East 100 North
Farmington, UT 84025
(801) 402-5319

- 2.2. Employment. Complaints alleging discriminatory conduct in employment practices on the basis of race, color, religion, national origin, sex, disability, age, sexual orientation, gender identity, or veteran status may be directed to the following Compliance Officer:

Suzi Jensen, Director
Human Resources Department
P.O. Box 588
45 East State Street
Farmington, UT 84025
(801) 402-5132

- 2.2.1. **DSD Policy 11IR-102 Provision for Reasonable Accommodation to Individuals with Disabilities.** The complaint procedures of this policy are not applicable to complaints alleging violations of Title I of the ADA related to a request for a reasonable accommodation. These complaints must be submitted and processed according to the procedures outlined in that policy.

- 2.3. Facilities. Complaints alleging failure to maintain applicable accessibility standards of school facilities resulting in discrimination against students, parents of students, visitors, or Boy Scouts or other youth groups may be directed to the following Compliance Officer:

Scott Zigich,
Director of Risk Management
P.O. Box 558
20 North Main Street
Farmington, UT 84025
(801) 402-5307

3. COMPLAINT PROCEDURE

In compliance with applicable federal and state law, it is the policy of the District to investigate promptly and resolve equitably all complaints and reports of discrimination on the basis of race, color, religion, sex, national origin, age, disability, or veteran status in its programs and activities, and any other alleged violation of civil rights. An individual who believes that he or she has been subjected to unlawful discrimination may personally or through a representative file a complaint as provided herein.

- 3.1. Site-Level Complaint. The site administrator is the individual responsible for receiving complaints of discrimination at the building or department level. Complainants are encouraged to work with site administrators in an effort to reach a mutually acceptable resolution to a complaint at the level or site of the incident in an informal manner. If the complaint is against the site administrator, the complaint may be filed directly with the Compliance Officer.

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- 3.2. District-Level Complaint. Complainants who are not satisfied with initial efforts to resolve a complaint of discrimination may file a complaint with the Compliance Officer identified in Section 2 of this policy or, if the complaint is against the Compliance Officer, the complaint may be filed with the Superintendent of Schools, who will direct the implementation of the procedures contained in this policy.
- 3.2.1. Complaints filed with the Compliance Officer or the Superintendent shall be in writing and contain the following information:
- [a] Complainant's name, home address, and telephone number, and school or work location;
 - [b] a brief description of the alleged discrimination or civil rights violation including the date, place, and time;
 - [c] names of any Respondents accused of discrimination (if known);
 - [d] a brief description of the communication that has already occurred to address the issue; and
 - [e] any other relevant information.
- The Complainant may also include a statement of requested relief or corrective action.
- 3.2.2. Alternate methods of filing complaints shall be made available to individuals with disabilities unable to file written complaints.
- 3.2.3. Complaints shall be reported as soon as possible, but not later than sixty (60) days after the incident(s) in order to be effectively investigated and resolved unless the time for reporting is extended by the District for good cause shown.
- 3.2.4. Complaint forms are available through the District website or the designated Compliance Officer. The use of District provided forms is not mandatory but intended as a method to assist individuals in collecting and organizing required information.
- 3.2.5. The District reserves the right to reassign a complaint to another Compliance Officer if, upon initial review, the receiving Compliance Office determines the complaint involves laws or regulations within another Compliance Officer's area of responsibility.
- 3.3. District-Level Complaint Processing:
- 3.3.1. **Initial Meeting.** Within ten (10) business days after receipt of the complaint, the designated Compliance Officer or his/her designee will meet with the Complainant to discuss the complaint and possible resolutions.
- 3.3.2. **Compliance Officer's Response.** Within ten (10) business days after the initial meeting, the designated Compliance Officer will respond in writing, and where appropriate, in a format accessible to the Complainant, such as large print, Braille, or audio tape. The response will explain the position of the District and offer options for substantive resolution of the complaint.
- 3.3.3. **Appeal of Compliance Officer's Response.** If the response by the designated Compliance Officer or his/her designee does not satisfactorily resolve the issue, the Complainant may appeal the response in writing within ten (10) calendar days after receipt of the response to the Superintendent.
- 3.3.4. **Appeal Meeting.** Within ten (10) business days after receipt of the appeal, the Superintendent or his/her designee will meet with the Complainant to discuss the

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complaint and possible resolutions.

3.3.5. **Final Response.** Within fifteen (15) calendar days after the meeting, the Superintendent or his/her designee will respond in writing, and, where appropriate, in a format accessible to the Complainant, with a final resolution of the complaint. This final response shall serve as the final administrative action in the matter.

3.3.6. **Extension of Time.** Any time limits established by this policy and these procedures may be extended for good cause by mutual consent of the parties involved.

4. OTHER AVENUES OF REDRESS

- 4.1. The complaint procedures of this policy do not preclude a Complainant from seeking alternative forms of redress. At any time, if a student, parent, employee, or member of the public believes that he/she has been subjected to discrimination in violation of the law, the individual may file a complaint with the appropriate state or federal agency.
- 4.1.1. Utah Anti-Discrimination Division (UADD); Industrial Commission of Utah; 160 East 300 South, 3rd Floor; P. O. Box 146600; Salt Lake City, UT 84114-6600; tel: (801) 530-6801; TDD-Hearing Impaired: (801) 530-7685.
- 4.1.2. Office for Civil Rights (OCR), U. S. Department of Education; Region VIII; Cesar E. Chavez Memorial Building; 1244 Speer Blvd. Suite #310; Denver CO 80204-3582; tel: (303) 844-4303

5. CRIMINAL ACTS

- 5.1. Where a complaint contains evidence that the discriminatory act or civil rights violation may involve child abuse, violence, or criminal activity, the Compliance Officer and site administrator shall immediately refer the complaint to appropriate law enforcement authorities or DCFS for investigation in addition to any administrative action deemed appropriate.
- 5.2. The District encourages any individual who has knowledge of discriminatory acts involving violence or criminal activity to independently report the information to law enforcement authorities.

6. CONFIDENTIALITY

- 6.1. It is District policy to respect the privacy and anonymity of all parties and witnesses to complaints brought under this complaint procedure. However, because an individual's right to confidentiality must be balanced with the District's obligations to cooperate with police investigations or legal proceedings, or to take appropriate disciplinary action, the District retains the right to disclose the identity of parties and witnesses to complaints in appropriate circumstances.
- 6.2. Where a complaint involves allegations of child abuse, the complaint shall be immediately reported to appropriate law enforcement authorities or DCFS and the anonymity of both the complainant and school officials involved in the investigation will be strictly protected as required by Utah Code Ann. § 62A-4a-412.

7. DISCIPLINARY ACTION

- 7.1. Any employee or student who commits a discriminatory act or civil rights violation may be subject to District disciplinary proceeding in compliance with the applicable policies and laws.

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- 7.2. The Compliance Officer shall notify the Complainant and Respondent in writing of the outcome of the complaint, i.e., whether the complaint was found to be credible. However, the release of information regarding the specific disciplinary action imposed on a student or employee must meet the requirements of the applicable state and federal laws. Student records are subject to the Family Educational Rights and Privacy Act, and employee records are subject to the Utah Government Records Access Management Act.

8. MAINTENANCE OF RECORDS

The Compliance Officer shall maintain all records of complaints made under this policy for three (3) years following the date of the original complaint.

9. RETALIATION

- 9.1. The District will not tolerate retaliation or intimidation of any kind towards anyone filing a complaint under this complaint procedure. Such retaliation and intimidation not only violates the District policy, but also may violate state and federal law. All complainants shall be informed of their right to be free from retaliation and intimidation.
- 9.2. The District will take swift and strict disciplinary action against any individual who retaliates against a Complainant, or who retaliates against a person who testifies, assists, or participates in an investigation, proceeding or hearing in connection with a complaint.
- 9.3. For purposes of this policy, retaliation includes, but is not limited to, any form of physical or verbal intimidation, reprisal, coercion, discrimination, physical or verbal harassment, threats, extortion, or unwanted sexual contact.

10. POLICY DISSEMINATION

A summary of this complaint procedure shall be posted in a prominent place in each District facility. This complaint procedure shall also be provided to each student and to each employee in other appropriate school publications (such as student and employee handbooks) as directed by the Compliance Officer.

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DEFINITIONS

“**Board**” means the Board of Education of Davis School District

“**Complaint**” means an allegation that an action, policy, procedure, or practice violates a law or regulation listed in this policy.

“**Respondent**” means the person alleged to have violated a law or regulation mentioned in the policy.

“**Compliance Officer**” means a person identified as being responsible at the District level for receiving complaints involving the laws or regulations mentioned in the policy.

“**Superintendent**” means the Superintendent of the Davis School District.

REFERENCES

Office for Civil Rights, U. S. Department of Education Regulations (34 C.F.R. § 106.8) Implementing Title IX of the Education Amendments of 1972 (20 U.S.C. §§ 1681-86)

These regulations require all school districts receiving federal funds to adopt and publish grievance procedures providing for the prompt and equitable resolution of student and employee complaints of discrimination on the basis of sex.

Office for Civil Rights, U. S. Department of Education Regulations (34 C.F.R. § 104.7) Implementing Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794).

These regulations require recipients of federal funds to adopt grievance procedures that incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints of discrimination on the basis of disability.

U. S. Department of Justice Regulations (28 C.F.R. § 35.107) Implementing Title II of the Americans with Disabilities Act (42 U.S.C. § 12131).

These regulations require public entities employing 50 or more persons to adopt and publish grievance procedures providing for prompt and equitable resolution of complaints of discrimination on the basis of disability.

Office for Civil Rights Regulations, U.S. Department of Education Regulations (34 C.F.R. § 100, et seq.) Implementing Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000(d)).

Prohibits discrimination based on race, color or national origin in educational programs or activities that receive Federal financial assistance.

Regulations (29 C.F.R. § 1641) Implementing Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000(e)).

Prohibits employment discrimination based on race, color, religion, sex and national origin.

Office of Civil Rights Regulations (29 C.F.R. § 16225.1) Implementing the Age Discrimination Act of 1975 (29 U.S.C. § 631).

Prohibits age discrimination in employment against individuals 40 years of age or older.

The Vietnam Era Veterans’ Readjustment Assistance Act of 1974 (38 U.S.C. § 4212).

Prohibits job discrimination and requires affirmative action to employ and advance in employment of disabled veterans, recently separated veterans, other protected veterans, eligible family members of veterans, and Armed Forces service medal veterans.

Office for Civil Rights, U.S. Department of Education Regulations (34 C.F.R. § 108) Implementing the Boy Scouts of America Equal Access Act (U.S.C. § 7905).

No public school district that provides an opportunity for one or more outside youth or community groups to meet on school premises or in school facilities shall deny equal access or a fair opportunity to meet, or discriminate against, any group officially affiliated with the Boy Scouts of America, or any other youth group listed in Title 36 of the United States Code as a patriotic society, that wishes to meet at the school.

[Utah Code Ann. Title 34A, Chapter 5 – Utah Antidiscrimination Act](#)

FORMS

[Discrimination and Civil Rights Complaint Form](#)

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DOCUMENT HISTORY:

Adopted: January 17, 2012 – Combines previous policies 11IR-102 Designation of Compliance Officer and 11IR-103 Civil Rights Grievance Procedure. Renamed and renumbered to 11IR-100 Nondiscrimination Policy and Complaint Procedure. Simplifies the Complaint Procedure for students, employees, and patrons.

Revised: January 28, 2016 - Updated consistent with changes in State law. Sexual orientation and gender identify included as protected classes in employment decisions.