



Boulder Valley School
District File: AC-R
Adopted: May 11, 1995
Revised: October 10, 2019

NONDISCRIMINATION/EQUAL OPPORTUNITY

(Complaint/Grievance and Compliance Process)

The district is committed to providing a working and learning environment that is free from unlawful discrimination and harassment. The district shall promptly respond to concerns and complaints/grievances/grievances of unlawful discrimination and/or harassment; take action in response when unlawful discrimination and/or harassment is discovered; impose appropriate sanctions on offenders in a case-by-case manner; and protect the privacy of all those involved in unlawful discrimination and/or harassment complaints/grievances as required by state and federal law. When appropriate, the complaint shall be referred to law enforcement for investigation.

The district has adopted the following procedures to promptly and fairly address concerns and complaints/grievances about unlawful discrimination and/or harassment. Complaints/grievances may be submitted orally or in writing.

Definitions

1. "Compliance officer" means an employee designated to receive complaints/grievances of alleged unlawful discrimination and harassment. The compliance officer shall be identified by title, address, telephone number and email address. See exhibit AC-E-1. If the designated individual is not qualified or is unable to act as such (including that the Compliance Officer is the individual alleged to have engaged in the prohibited conduct), the Superintendent shall designate an alternate compliance officer. If the Superintendent is the individual alleged to have engaged in the prohibited conduct, then the Board shall designate an alternate compliance officer.
2. "Aggrieved individual" shall mean a student, the parents or guardians of a student under the age of 18 acting on behalf of a student, an employee of the district, or member of the public who is directly affected by and/or is witness to an alleged violation of Board policies prohibiting unlawful discrimination or harassment.
3. "Discrimination" occurs when a student or community member is denied or limited in the ability to participate in or benefit from the District's services, activities, or opportunities on the basis of any class protected by federal and/or Colorado law.

4. "Harassment" is any unwelcome verbal, written, graphic, physical, or other conduct on the basis of any class protected by federal and/or Colorado law that is sufficiently severe, pervasive, or persistent to either:
 - (A) interfere with a student's or community member's ability to participate in the District's services, activities, or opportunities; or
 - (B) alter an employee's conditions of employment and create an abusive working environment.

Whether conduct is sufficiently severe, pervasive, or persistent to amount to harassment depends on a number of factors, including:

- (A) the type, frequency, and duration of the conduct;
- (B) the relationship between the individuals involved;
- (C) the age, education level, and number of individuals involved;
- (D) the context in which the conduct occurred; and,
- (E) the effect on the Complainant's education or employment.

In some cases, a single severe act—such as an act of physical violence—can amount to harassment if the act is based on any class protected by federal and/or Colorado law. When considering whether a single act of physical violence amounts to harassment, the important question is the severity of conduct, not whether the conduct fits within the definition of any specific crime or basis for discipline. The more severe the conduct, the less the need to show a repetitive series of incidents.

5. "Retaliation" occurs when the District intimidates, coerces, or discriminates against an individual because the individual raised a good-faith concern about or participated in good faith in an investigation of discrimination or harassment. The District will investigate and respond to an allegation of retaliation in the same manner as an allegation of discrimination or harassment. Employees shall cooperate with District investigations in good faith.

Compliance officer's duties

The compliance officer shall be responsible for coordinating all complaint procedures and processes for any alleged violation of federal or state statute or Board policy prohibiting unlawful discrimination or harassment. The compliance officer's duties shall include providing notice to students, parents/guardians of students, employees and the general public concerning the compliance process, providing training for district staff regarding the prohibition of discrimination/harassment in all district programs, activities and employment practices, disseminating information concerning the forms and procedures for the filing of complaints/grievances, ensuring the prompt investigation of all complaints/grievances, coordinating hearing procedures, and identifying and addressing any patterns or systemic problems that arise during the review of complaints/grievances.

The compliance officer may delegate any or all of the foregoing responsibilities as necessary and/or appropriate under the circumstances.

Complaint/grievance procedure

An aggrieved individual is encouraged to promptly report the incident as provided in Board policy and this regulation. When appropriate to do so, reports received by teachers, counselors, principals, or other district employees may initially be investigated and resolution pursued at a building level.

Sexual harassment procedure

Complaints/grievances regarding sexual harassment and other forms of discrimination and harassment shall be addressed as efficiently as possible. Students who believe that they have been subjected to sexual harassment are encouraged to report the incident to the principal, another building administrator, another trusted adult staff member, or the appropriate district level administrator. Any report of sexual harassment from a student received by any staff member will be forwarded to the building principal for investigation, unless the alleged harasser is the building principal in which case an alternate administrator will be designated. Employees who believe that they have been subjected to sexual harassment are encouraged to report consistent with Board Policy GBEE.

After receiving a report, the principal/designee will confer with the individual who has allegedly been discriminated against or harassed as soon as is reasonably possible (ordinarily not more than two (2) school days) to obtain a clear understanding of the basis of the complaint/grievance and what action the individual is seeking. At this meeting, the principal/designee will also explain:

1. The avenues for resolution
2. The district's legal obligation to take steps to correct discrimination and harassment and to prevent recurring discrimination and harassment or retaliation against anyone who makes a discrimination and harassment report or participates in an investigation.
3. Any request for confidentiality will be honored so long as doing so does not preclude the school from responding effectively to the discrimination and harassment and preventing future discrimination and harassment.

Following the initial meeting, the principal/designee will attempt to meet with the alleged perpetrator to obtain a response to the reported discrimination or harassment and will investigate the matter, including interviews with identified witnesses. The principal/designee will complete the investigation within fourteen (14) days of the initial meeting, unless otherwise agreed.

Within seven (7) days of completing the investigation, the principal/designee will issue

an outcome report. The report should address any recommendations necessary to eliminate discrimination or harassment and its effects, to make the victim whole by restoring lost educational or employment opportunities, to prevent harassment from recurring and to prevent retaliation against anyone who reports sexual harassment or participates in a harassment investigation.

Any party not satisfied with a decision made by the principal/designee may present their concerns in accordance with this regulation's general procedures, beginning with a review by the compliance officer.

General Procedure

Any aggrieved individual may DIRECTLY file with the compliance officer a complaint/grievance charging the district, any student or any school employee with unlawful discrimination or harassment under Title II, Title VI, Title IX, or Section 504/ADA or any district policy prohibiting unlawful discrimination or harassment. Complaints/grievances may be made orally or in writing. Persons who wish to file a written complaint/grievance shall be encouraged to use the form AC-E-2.

All complaints/grievances shall include a detailed description of the alleged events, the dates the alleged events occurred and names of the parties involved, including any witnesses. The complaint/grievance shall be made as soon as possible after the incident.

The compliance officer shall confer with the aggrieved individual and/or the alleged victim of the unlawful discrimination or harassment as soon as is reasonably possible, but no later than 10 school days following the district's receipt of the complaint/grievance (unless otherwise agreed) in order to obtain a clear understanding of the nature of the complaint/grievance and to discuss what action the aggrieved individual may be seeking.

During this initial conference, the compliance officer shall explain the avenues for informal and formal action, provide a description of the complaint/grievance process, and explain that both the victim and the individual alleged to have engaged in prohibited conduct have the right to exit the informal process and request a formal resolution of the matter at any time. The compliance officer shall also explain that whether or not the individual files a written complaint/grievance or otherwise requests action, the district is required by law to take steps to correct unlawful discrimination or harassment and to prevent recurring unlawful discrimination, harassment or retaliation against anyone who makes a report or participates in an investigation. The compliance officer shall further explain that any request for confidentiality shall be honored so long as doing so does not preclude the district from responding effectively to prohibited conduct and preventing future prohibited conduct.

Informal action

If the aggrieved individual and the individual alleged to have engaged in the prohibited conduct consent to informal action and the compliance officer believes that the matter is

suitable to such resolution, the compliance officer may attempt to resolve the matter informally through mediation, counseling or other non-disciplinary means. If both parties feel a resolution has been achieved through the informal process, then no further compliance action must be taken. No party shall be compelled to resolve a complaint/grievance of unlawful discrimination or harassment informally and either party may request an end to the informal process at any time. Informal resolution shall not be used to process complaints/grievances by a student against a school employee and shall not be used between students where the underlying offense involves sexual assault or other act of violence.

Formal action

If informal resolution is inappropriate, building level investigation does not resolve the complaint/grievance, or other appropriate efforts are unsuccessful, the compliance officer shall promptly investigate the allegations to determine whether and/or to what extent, unlawful discrimination or harassment has occurred.

The compliance officer may consider the following types of information in determining whether unlawful discrimination and/or harassment has occurred:

- a. Statements by any witness to the alleged incident;
- b. Evidence about the relative credibility of the parties involved;
- c. Evidence relative to whether the individual alleged to have engaged in the prohibited conduct has been found to have engaged in prohibited conduct against others;
- d. Evidence of the aggrieved individual's and/or alleged victim's reaction or change in behavior following the alleged prohibited conduct;
- e. Evidence about whether the aggrieved individual and/or alleged victim took action to protest the conduct;
- f. Evidence and witness statements or testimony presented by the parties involved;
- g. Other contemporaneous evidence; and/or
- h. Any other evidence deemed relevant by the compliance officer.

In deciding whether conduct is a violation of law or policy, all relevant circumstances shall be considered by the compliance officer, including:

- a. The degree to which the conduct affected one or more student's education or one or more employee's work environment;
- b. The type, frequency and duration of the conduct;
- c. The identity of and relationship between the individual alleged to have engaged in the prohibited conduct and the aggrieved individual and/or alleged victim;
- d. The number of individuals alleged to have engaged in the prohibited conduct and the number of aggrieved individuals/alleged victims;

- e. The ages of the individual alleged to have engaged in the prohibited conduct and the aggrieved individual and/or alleged victim;
- f. The size of the school or worksite, location of the incident, and context in which it occurred; and/or
- g. Other incidents at the school or worksite.

The compliance officer shall prepare a written report containing findings and recommendations, as appropriate, within 45 school days following the compliance officer's receipt of the complaint/grievance or 30 school days following the termination of the informal resolution process. The compliance officer's report shall be advisory and shall not bind the Superintendent or the district to any particular course of action or remedial measure. However, the report may be used by the superintendent or other district administration officials as a basis for disciplinary or other appropriate action. Within 10 school days after submission of the findings and recommendation, the Superintendent or designee shall determine any sanctions or other action deemed appropriate.

Within 10 school days following the Superintendent or designee's determination, and to the extent permitted by federal and state law, all parties, including the parents/guardians of all students involved, shall be notified in writing by the Superintendent or designee of the final outcome of the investigation and action taken by the district.

Hearing procedure

For allegations under Section 504 and as otherwise required by law, the aggrieved individual may request a hearing. This hearing procedure will not address guilt or innocence or disciplinary consequences, which shall instead be governed by the Board's discipline policies and procedures.

The hearing officer will be an administrative employee of the district or other appropriate person designated by the district. The hearing shall be informal. A student shall be entitled to be represented by his/her parent or by an attorney. An employee shall be entitled to be represented by an attorney or other representative of his/her choice. The complainant may appear at the hearing and shall be entitled to present testimony and other evidence. Formal rules of evidence shall not apply. The compliance officer or designee may represent the district at the hearing and shall likewise be entitled to present testimony and other evidence. The hearing shall be closed to the public.

The hearing officer shall make a written recommendation to the Superintendent based upon evidence presented at the administrative hearing. Within 10 school days of receiving the hearing officer's recommendations, the Superintendent or designee shall determine any remedial or corrective action deemed appropriate.

Remedial or corrective actions shall include measures designed to stop the unlawful discrimination or harassment, correct its negative impact on the affected individual, ensure that the conduct does not recur, and restore lost educational opportunities.

Any party not satisfied with a decision made by the Superintendent may present his/her concerns to the Board. Any action taken by the Board shall be final.

Nothing contained herein shall be interpreted to confer upon any person the right to a hearing independent of a Board policy, administrative procedure, statute, rule, regulation or agreement expressly conferring such right. This process shall apply, unless the context otherwise requires and unless the requirements of another policy, procedure, statute, rule, regulation or agreement expressly contradicts with this process, in which event the terms of the contrary policy, procedure, law, rule, regulation or agreement shall govern.

Outside agencies

In addition to, or as an alternative to, filing a complaint/grievance pursuant to this regulation, a person may file a discrimination complaint/grievance as follows:

Alleged violations of Title VI (race, national origin), Title IX (sex/gender), Section 504/ADA (disability), may be filed directly with the Office for Civil Rights, U.S. Department of Education, 1244 North Speer Blvd., Suite 310, Denver, CO 80204. Toll Free: 800-262-4845 English/Spanish. Telephone: 303-844-5695. Fax: 303-844-4303. TTY: 303-844-3417. Email: OCR Denver @ed.gov

Alleged violations of Title VII (employment) and the ADEA (prohibiting age discrimination in employment) may be filed directly with the U.S. Equal Employment Opportunity Commission, 303 E. 17th Ave., Suite 510, Denver, CO 80202, Toll Free: 800-669-4000. Fax: 303-866-1085. TTY: 800-669-6820. Email: egov.eeoc.gov.eas

Certain violations may also be filed with the Colorado Civil Rights Commission, (CCRD), 1560 Broadway, Suite 1050, Denver, CO 80202. Toll Free: 800-262-4845. Telephone: 303-894-2997. Fax: 303-894-7830. Email: dora_CCRD@state.co.us

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