

NONDISCRIMINATION/EQUAL OPPORTUNITY

(Complaint and Compliance Process)

The district is committed to providing a working and learning environment that is free from unlawful discrimination and harassment on the basis of any status protected by law. The district shall promptly respond to concerns and complaints of such unlawful discrimination and/or harassment; take action in response when 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 discrimination and/or harassment complaints to the extent 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 about discrimination and/or harassment. Complaints may be submitted orally or in writing to the appropriate compliance officer or compliance officer's designee. Board Policy AC-R is not intended to be used for Title IX complaints. Refer to AC-R-2 for those procedures.

Definitions

1. The term "compliance officer" refers to the employee(s) designated by the Board of Education to receive, investigate, and respond to complaints of alleged unlawful discrimination and harassment and otherwise coordinate the district's efforts to ensure a working and learning environment that is free from unlawful discrimination and harassment. The compliance officer(s) shall be identified by name/title, address, telephone number and email address. See exhibit AC-E-1. If the designated individual(s) is not qualified or unable to act as such, the superintendent shall designate an administrator who shall serve until a successor is appointed by the Board.
2. The term "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 a witness to an alleged violation of Board policy prohibiting unlawful discrimination or harassment.

Compliance Officer Duties

The compliance officer(s) or compliance officer's designee shall be responsible for conducting an investigation and coordinating all complaint procedures and processes for any alleged violation of federal or state statute or Board policy prohibiting unlawful discrimination or harassment on the basis of a person's actual or perceived characteristics such as, but not limited to, race, color, sex, sexual orientation, gender identity, gender expression, religion, creed, national origin, ancestry, immigration/citizenship status, age, marital status, conditions related to pregnancy or childbirth, genetic information, mental or physical disability, need for special education services, or any other protected class in conformance with federal, state, and local law. The compliance officer(s)'s duties shall include providing notice to students, parents/guardians of students, employees, and the general public concerning the district's applicable policies and complaint process, providing training for employees 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, ensuring the prompt investigation of all complaints and identifying and addressing any patterns or systemic problems that arise during the review of complaints. The compliance officer(s) may delegate any or all of the foregoing responsibilities as necessary and/or appropriate under the circumstances.

Complaint Procedure

An aggrieved individual is encouraged to promptly report the incident as provided in Board policy and this regulation. All reports received by teachers, counselors, principals or other district employees shall be promptly forwarded to the appropriate compliance officer. If the compliance officer is the individual alleged to have engaged in the prohibited conduct, the complaint shall be forwarded to the superintendent or superintendent's designee for appointment of an appropriate alternate investigator.

Any aggrieved individual may file, with the appropriate compliance officer, a complaint charging the district, another student or any school employee with unlawful discrimination or harassment in violation of Board policy. Complaints may be made orally or in writing. Persons who wish to file a written complaint shall be encouraged to use the district's designated complaint form (*see AC-E-2*), available from HR and building administrators.

All Reports and complaints shall not be accepted for investigation more than one-hundred eighty (180) calendar days after the last date on which the alleged harassment or unlawful discrimination occurred. Extensions may be granted upon showing that the aggrieved individual was prevented from timely filing as a result of circumstances beyond their control.

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

The compliance officer or compliance officer's designee shall confer with the aggrieved individual and/or the alleged target of the unlawful discrimination or harassment, and, if a student, their parents/guardians, as soon as is reasonably possible, but no later than ten (10) school days following the district's receipt of the complaint in order to obtain a clear understanding of the basis for the complaint.

Within ten (10) school days following the initial meeting with the aggrieved individual and/or the alleged target, the compliance officer shall attempt to meet with the individual alleged to have engaged in the prohibited conduct and, if a student, their parents/guardians in order to obtain a response to the complaint. Such person(s) shall be informed of all allegations that, in the compliance officer's judgment, are necessary to achieve a full and accurate disclosure of material information or to otherwise resolve the complaint.

At the initial meeting, the compliance officer or compliance officer's designee shall explain the avenues for informal and formal action, provide a description of the complaint process, and explain that the aggrieved individual and/or the alleged target 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 or compliance officer's designee shall also explain that whether or not the individual files a written complaint or otherwise requests action, the district will nonetheless investigate the matter as it is required by law to take steps to correct unlawful discrimination or harassment, to prevent it from recurring, and to guard against retaliation against anyone who makes a report or participates in an investigation. The compliance officer or compliance officer's designee shall also explain that any request for

confidentiality shall be honored so long as doing so does not preclude the district from responding effectively and preventing future unlawful discrimination and/or harassment in violation of district policy.

Informal Action

If the aggrieved individual and/or the alleged target and the individual alleged to have engaged in the prohibited conduct request that the matter be resolved in an informal manner, 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 action will be taken. No party shall be compelled to resolve a complaint of unlawful discrimination or harassment informally, and either party may request an end to an informal process at any time.

Informal resolution shall not be used to process complaints against a district employee and shall not be used between students where the underlying offense involves sexual assault or other acts of violence.

Formal Action

If informal resolution is inappropriate, unavailable, or unsuccessful, the compliance officer or compliance officer's designee shall promptly investigate the allegations to determine whether and/or to what extent unlawful discrimination or harassment has occurred in violation of Board policy. If the complaint alleges sexual harassment in violation of Board policies GBA or JBB, the investigation will be conducted in accordance with both the provisions of those policies as well as the steps outlined below.

The compliance officer may consider the following types of information in determining whether unlawful discrimination or harassment 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 prohibited conduct has been found to have engaged in prohibited conduct against others
- d. evidence of the aggrieved individual's and/or the alleged target's reaction or change in behavior following the alleged prohibited conduct
- e. evidence about whether the aggrieved individual and/or the alleged target took action to protest the conduct
- f. evidence and witness statements or testimony presented by the parties involved
- g. other contemporaneous evidence
- h. any other evidence deemed relevant by the compliance officer

In deciding whether conduct is a violation of Board policy, all relevant circumstances shall be considered by the compliance officer, including, but not limited to:

- 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 the alleged target
- d. the number of individuals alleged to have engaged in the prohibited conduct and number of targets of the prohibited conduct
- e. the age of the individual alleged to have engaged in the prohibited conduct and the aggrieved individual and/or the alleged target

- f. the size of the school, location of the incident and context in which it occurred
- g. other incidents at the school

Within twenty (20) school days following the meeting with the individual alleged to have engaged in the prohibited conduct or the termination of the informal resolution process, whichever occurs later, the compliance officer or compliance officer's designee shall prepare a written report to the aggrieved individual and/or the alleged target or their legal guardian, and the individual alleged to have engaged in the prohibited conduct or their legal guardian. The compliance officer or compliance officer's designee will wait ten (10) days prior to providing the report to the decision maker. During these ten (10) days, the aggrieved individual and/or the alleged target or their legal guardian and the individual alleged to have engaged in the prohibited conduct or their legal guardian will be provided time to review the evidence in the report and to provide the compliance officer or compliance officer designee with any further information or relevant questions to include in the investigation and/or report. The compliance officer or compliance officer designee's report must be advisory and must not bind the decision maker to any particular course of action or remedial measure.

The decision maker will apply the preponderance of the evidence standard when making a decision and must notify the aggrieved individual and/or the alleged target or their legal guardian and the individual alleged to have engaged in the prohibited conduct or their legal guardian of the decision. The decision must include a written determination regarding responsibility, explain how and why the decision maker reached the conclusions outlined in the report, and detail any disciplinary measures taken in response to the conduct. The decision of the decision maker in no way prejudices either the complainant or the respondent from seeking redress through state or federal agencies, as provided in law.

If either party is not satisfied with the decision maker's determination, a written request for review may be filed with the superintendent or the superintendent's designee within ten (10) calendar days from receiving the written report. Within thirty (30) school days of receiving the request for review, the superintendent or superintendent's designee shall conduct any additional investigation necessary and issue a written report to the alleged victim or their legal guardian, the individual alleged to have engaged in the prohibited conduct or their legal guardian, and the compliance officer. The superintendent's or superintendent designee's review shall be limited to whether or not the complaint policy was adequately followed and whether there has been a violation of Board policy. Any action taken by the superintendent or superintendent's designee shall be final.

Section 504 Hearing Procedure

In addition to utilizing the complaint procedures described above, if a complaint involves a student's identification, evaluation, or educational placement under Section 504 of the Rehabilitation Act, the student's parents or legal guardians also have the option of requesting an impartial due process hearing. The district's due process hearing procedures are as follows:

- An impartial due process hearing may be requested by filing written notice with the district's Section 504/ADA Compliance Officer.
- Upon receiving a written request for a hearing, the district's Section 504/ADA Compliance Officer will select an impartial hearing officer to decide the matter.
- The district-appointed hearing officer will schedule a due process hearing to occur as soon as reasonably practicable for the parent/legal guardian and district. The

parent/legal guardian and district may be represented by legal counsel at the hearing, may examine relevant records, and participate in the hearing.

- Within ten (10) school days after the conclusion of the hearing, the hearing officer will issue a written decision. The decision shall include applicable findings of fact and conclusions of law. The hearing officer shall submit the written decision to the parent/legal guardian and the superintendent. The decision of the hearing officer shall constitute the final administrative decision in the matter.
- If either the parent/legal guardian or the district is not satisfied with the decision rendered by the hearing officer, the parent/legal guardian or district may initiate legal proceedings in a court of competent jurisdiction.

Outside Agencies

In addition to, or as an alternative to, filing a complaint pursuant to this regulation, a person may file a discrimination complaint with the U.S. Department of Education, Office for Civil Rights (OCR); the Federal Office of Equal Employment Opportunity Commission (EEOC); or the Colorado Civil Rights Division (CCRD). The addresses of these agencies are listed below.

Denver Office for Civil Rights (OCR), U.S. Department of Education, 1244 Speer Blvd., Suite 310, Denver, CO 80204-3582. Telephone: 303-844-5695. Fax: 303-844-4303. TTY: 303-844-3417. Email: OCR.Denver@ed.gov

Federal Office of Equal Employment Opportunity Commission (EEOC), 303 E. 17th Avenue, Suite 410, Denver, CO 80203. Telephone: 800-669-4000. Fax: 303-866-1085. TTY: 800-669-6820. ASL Video Phone: 844-234-5122. Website: <https://publicportal.eeoc.gov/portal/>

Colorado Civil Rights Division (CCRD), 1560 Broadway, Suite 825, Denver, CO 80202. Telephone: 303-894-2997 or 800-886-7675. Fax: 303-894-7830. Email: DORA_CCRD@state.co.us (general inquiries), DORA_CCRDIntake@state.co.us (intake unit)

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