

DISCRIMINATION/HARASSMENT /RETALIATION COMPLIANCE COMPLAINT PROCEDURE

Discrimination, harassment or retaliation against employees, students or others on the basis of race, color, religion, sex, national origin, sexual orientation or perceived sexual orientation, ancestry, disability, veteran status, age, genetic information or any other characteristic protected by law is strictly prohibited in accordance with law. The following are the definitions of and procedures for reporting, investigation, and resolution of complaints thereof.

Definitions

1. *Complaint* - Submission to the district compliance officer of a written or verbal allegation that there has been a violation of policy AC. The complaint must include:
 - a. Date of filing
 - b. Discrimination category at issue (e.g. sex, national origin, etc.)
 - c. Names of persons involved including possible witnesses
 - d. Facts alleged to have happened
 - e. A statement of why the facts constitute a violation of policy AC
 - f. A suggestion of the remedy desired
 - g. A description of any informal adjustment attempts or progress within the complainant's knowledge as of the date of the complaint. Exhibits may be attached.
2. *Complainant* - A person who, by the filing of a complaint under this procedure, claims to be the victim, or the parent or guardian of a student who claims the student was a victim of discrimination in violation of policy AC.
3. *Appeal* -An appeal requires:
 - a. The filing of the original complaint and exhibits
 - b. All decisions rendered by district officials at any lower levels in the complaint process
 - c. A statement of why the decision being appealed from is inadequate or incorrect
 - d. A statement of the progress of any informal adjustment known to the complainant
4. *Working Days* - Days on which the district's business offices are open.
5. *Discrimination*-
 - a. Conferring benefits upon, refusing or denying benefits to, or providing differential treatment to a person or class of persons
 - b. In violation of law based on race, color, religion, sex, national origin, sexual orientation or perceived sexual orientation, ancestry, disability, veteran status, age, genetic information, or any other characteristic protected by law, or based on a belief that such a characteristic exists
6. *Harassment* - A form of discrimination, as defined above, that occurs when:
 - a. The school or work environment becomes permeated with intimidation, ridicule or insult that is sufficiently severe or pervasive enough that it unreasonably alters the employment or educational environment.

Behaviors that could constitute illegal harassment include, but are not limited to, the following acts if based on race, color, religion, sex, national origin, sexual orientation, ancestry, disability, veteran status, age, genetic information or any other characteristic protected by law or based on a

belief that such a characteristic exists:

- a. Graffiti
 - b. Display of written material or pictures
 - c. Name calling, teasing or taunting
 - d. Insults
 - e. Derogatory remarks or slurs
 - f. Jokes
 - g. Gestures
 - h. Threatening, intimidating or hostile acts
 - i. Physical acts of aggression, assault or violence
 - j. Theft
 - k. Damage to property
 - l. Threatening, intimidating, derogatory, or hostile email, text, or social media posting
7. *Sexual Harassment* - A form of discrimination, as defined above, on the basis of sex. Sexual harassment is unwelcome conduct that occurs when:
- a. Benefits or decisions are implicitly or explicitly conditioned upon submission to, or punishment is applied for refusing to comply with, unwelcome sexual advances, requests for sexual favors or conduct of a sexual nature.
 - b. The school or work environment becomes permeated with intimidation, ridicule or insult that is based on sex or is sexual in nature and that is sufficiently severe or pervasive enough to alter the conditions of participation in the district's programs and activities or the conditions of employment.

Sexual harassment may occur between members of the same or opposite sex. The district presumes a student cannot consent to behavior of a sexual nature with an adult regardless of the circumstance.

Behaviors that could constitute sexual harassment include, but are not limited to:

- i. Sexual advances and requests or pressure of any kind for sexual favors, activities or contact
 - ii. Conditioning grades, promotions, rewards or privileges on submission to sexual favors, activities or contact
 - iii. Punishing or reprimanding persons who refuse to comply with sexual requests, activities or contact
 - iv. Graffiti, name calling, slurs, jokes, gestures or communications of a sexual nature or based on sex
 - v. Physical contact or touching of a sexual nature, including touching of intimate parts and sexually motivated or inappropriate patting, pinching or rubbing
 - vi. Comments about an individual's body, sexual activity or sexual attractiveness
8. *Physical Sexual Acts*-
- a. Acts of aggression, assault or violence, including criminal offenses (such as rape, sexual assault or battery, and sexually motivated stalking)
 - b. Against a person's will or when a person is not capable of giving consent due to the person's age, intellectual disability or use of drugs or alcohol
9. *Gender-Based Harassment* - Acts of verbal, nonverbal, written, graphic or physical

- conduct based on sex or sex stereotyping, but not involving conduct of a sexual nature
10. *Retaliation* - Actions including, but not limited to, acts of intimidation, threats, coercion or discrimination against those who:
 - a. Make complaints of prohibited discrimination or harassment
 - b. Report prohibited discrimination or harassment
 - c. Participate in an investigation, formal proceeding or informal resolution, whether conducted internally or outside the district, concerning prohibited discrimination or harassment
 - d. Aiding, abetting, inciting, compelling or coercing discrimination, harassment or retaliatory actions
 - e. Discrimination, harassment or retaliation against any person because of harassment in accordance with this policy
 11. *Other Prohibited Behavior* - Behavior that is not unlawful or does not rise to the level of illegal discrimination, harassment or retaliation that is still unacceptable for the workplace or the educational environment. This includes demeaning or otherwise harmful actions are prohibited, particularly if directed at personal characteristics including, but not limited to, socioeconomic level, sexual orientation or perceived sexual orientation.
 12. *Compliance Officer* - The individual responsible for implementing this policy, including the Acting compliance officer when he or she is performing duties of the compliance officer.
 13. *School Nutrition Program* – In accordance with federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its agencies, offices and employees, and institutions participating in or administering USDA programs (including the district), are prohibited from discriminating based on race, color, national origin, sex, disability, age or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by the USDA. These programs include the National School Lunch Program, the Special Milk Program, the School Breakfast Program, and the Summer Food Service Program.

Reporting

All employees, students and visitors must immediately report to the district any incident or behavior that could constitute discrimination, harassment or retaliation. If a student alleges sexual misconduct on the part of any district employee to any person employed by the district that person will immediately report the allegation to the Children's Division (CD) of the Department of Social Services in accordance with state law. In accordance with law and district policy, any person suspected of abusing or neglecting a child will be reported immediately to the CD. Children's Division (CD) of the Department of Social Services, or the Missouri Department of Health and Senior Services (DHSS). In accordance with this policy and as allowed by law, the district will investigate and address discrimination, harassment or and retaliation that occurs and whether it negatively impacts the school environment, including instances that occur off district property or are unrelated to the district's activities. The district will investigate and address the behavior in accordance with this policy, as allowed by law.

Any person or representative alleging discrimination based on prohibitions from the U.S. Department of Agriculture has the right to file a complaint within 180 days of the alleged discriminatory action with the USDA Office of the Assistant Secretary for Civil Rights or the

district's compliance officer using the process outlined in policy EF.

Interim Measures

When a report is made or the district otherwise learns of potential discrimination, harassment or retaliation, the district will take immediate action to protect the alleged victim, including implementing interim measures. For example, the district may alter a class seating arrangement, provide additional supervision for a student or suspend an employee pending an investigation. The district will take immediate steps to prevent retaliation against the alleged victim, any person associated with the alleged victim, or any witnesses or participants in the investigation. These steps may include, but are not limited to, notifying students, employees and others that they are protected from retaliation, ensuring that they know how to report future complaints, and initiating follow-up contact with the complainant to determine if any additional acts of discrimination, harassment or retaliation have occurred.

Compliance Officers

The board designates the following individuals to act as the district's compliance officers:

Student Issues:

Compliance Liaison, Title IX Coordinator
Special School District of St. Louis County
12110 Clayton Road
Town and Country, Missouri 63131 Phone: (314) 989-8135
Email: srhenry@ssdmo.org

Employee &/or Visitor Issues:

Chief Compliance Officer
Special School District of St. Louis
County 12110 Clayton Road
Town and Country, Missouri 63131
Phone: (314) 989-8100 Fax: (314) 989-8449
E-mail: wpendergrass@ssdmo.org

In the event the compliance officer is unavailable or is the subject of a report that would otherwise be made to the compliance officer, reports should instead be directed to the acting compliance officer:

Superintendent

Special School District of St. Louis County
Town and Country, Missouri 63131
Phone: (314) 989-8281
Fax: (314) 989-8440
E-mail: [mmaclin@ssdmo.org](mailto:mmacclin@ssdmo.org)

The chief compliance officer, designee or acting compliance officer will:

1. Coordinate district compliance with this policy and the law.
2. Receive all complaints regarding discrimination, harassment and retaliation in the district.

3. Serve as the district's designated Title IX, Section 504 and Americans with Disabilities Act (ADA) coordinator, as well as the contact person for compliance with other discrimination laws.
4. Investigate or assign persons to investigate complaints, monitor the status of complaints to ensure that additional discrimination, harassment and retaliation do not occur; and recommend consequences.
5. Review all evidence brought in disciplinary matters to determine whether additional remedies are available, such as separating students in the school environment.
6. Determine whether district employees with knowledge of discrimination, harassment or retaliation failed to carry out their reporting duties and recommend disciplinary action, if necessary.
7. Communicate regularly with the district's law enforcement unit to determine whether any reported crimes constitute potential discrimination, harassment or retaliation.
8. Oversee discrimination, harassment or retaliation complaints, including identifying and addressing any patterns or systemic problems and reporting such problems and patterns to the superintendent or the board.
9. Seek legal advice when necessary to enforce this policy.
10. Report to the superintendent and the board aggregate information regarding the number and frequency of complaints and compliance with this policy.
11. Make recommendations regarding changing this policy or the implementation of this policy.
12. Institute and coordinate training programs for district staff and supervisors as necessary to meet this policy's goals, including instruction in recognizing behavior that constitutes discrimination, harassment and retaliation.
13. Periodically review student discipline records to determine whether disciplinary consequences are applied uniformly.
14. Perform other duties as assigned by the superintendent.

General Provisions

1. Students, employees and others may attempt to resolve minor issues by addressing concerns directly to the person alleged to have violated this policy, but they are not expected or required to do so. Any attempts to voluntarily resolve a complaint will not delay the investigation once a report has been made to the district.
2. Unless the concern is otherwise voluntarily resolved, all persons must report incidents that might constitute discrimination, harassment or retaliation directly to the compliance officer or acting compliance officer. All district employees will instruct all persons seeking to make a complaint to communicate directly with the chief compliance officer. Even if the potential suspected victim of discrimination, harassment or retaliation does not file a complaint, district employees are required to report to the compliance officer any observations, rumors or other information regarding actions prohibited by the policy. If a verbal complaint is made, the person will be asked to submit a written complaint to the compliance officer or acting compliance officer. If a person refuses or is unable to submit a written complaint, the compliance officer will summarize the verbal complaint in writing. A complaint is not needed for the district to take action upon finding a violation of law, district policy

or district expectations. Even if a complaint is not directly filed, if the compliance officer otherwise learns about possible discrimination, harassment or retaliation, including violence, the district will conduct a prompt, impartial, adequate, reliable and thorough investigation to determine whether unlawful conduct occurred and will implement appropriate interim measures if necessary.

3. This complaint procedure exists to provide formal resolution of complaints that policy AC has been violated. It does not prohibit the informal adjustment of any complaint. Pursuit of informal adjustment is not a valid reason for missing a filing deadline, but a timely filed complaint may be continued by consent of the parties in order to allow pursuit of informal adjustment.
4. The nondiscrimination compliance coordinator should be informed of the progress of all informal adjustments and complaints at each step by the district employee responsible for each step of a complaints, so that the compliance coordinator may keep abreast of all matters concerning policy AC and be ready at any time to report on the same to the superintendent, board or an outside agency.
5. Where a statute, administrative rule, or board policy provides a scheme for resolutions of complaints arising under that statute, rule or policy, this complaint procedure shall not be applicable.
6. When, based upon reported information and/or investigation, the compliance coordinator finds a likely violation of policy AC, the compliance coordinator shall so inform the superintendent, regardless of whether a complaint has been filed. Lack of a complaint will not preclude appropriate remedial action by the district upon a finding by the superintendent of a violation of policy AC, nor will the existence of a complaint or its outcome hinder the superintendent in enforcing policy AC. Lack of a remedial action does not preclude a disciplinary action, and vice versa.
7. In addition to keeping the superintendent informed of likely violations of policy AC throughout the district, the compliance coordinator should also confidentially contact putative victims of likely violations of policy AC to investigate, further explain policy AC if necessary, and make sure the putative victim is aware of the complaint procedure.
8. Actions involving employees or students implemented as remedial action for a violation of policy AC are not exempt from such constitutional due process requirements as apply case-by-case, to such an individual and/ or the nature of the action taken. However, this regulation is not meant to provide any additional substantive or procedural rights to employees or students who must be involved in remedial actions.
9. If a person designated to hear a complaint or appeal is the subject of the complaint, the next highest step in the complaint process will be used. For example, if the complaint involves the superintendent, the compliance officer may designate someone outside the district to hear the complaint in lieu of the superintendent, or the complaint may be heard directly by the board.
10. Investigation and reporting deadlines are not mandatory for the district when more time is necessary to adequately conduct an investigation and to render a decision. An extension of the investigation and reporting deadlines may be warranted if extenuating circumstances exist as determined by the district's compliance officer. When extended, the person filing the complaint (complainant) will be notified. If

more than twice the allotted time has expired without a response, the complainant may appeal to the next level.

11. Persons alleged to have violated policy AC, and/ or persons necessarily involved in resolution of complaints, will have access to written complaints, materials only in the event that remedial or disciplinary action is actually implemented, and then only on a need-to-know basis or as required by the constitution. Participants must understand that FERPA may prevent the disclosure of some records or actions to complainants, including in the written responses called for in these regulations.
12. All documents, communications and records pertaining to this complaint procedure will be kept separate from personnel records of employees.
13. The district will not be relieved of its responsibility to respond to a complaint filed under this complaint procedure by the fact that an outside enforcing agency has received a complaint arising from the same circumstances.
14. The compliance coordinator will make follow-up inquiries on completed complaints and informal adjustments to assure that remedial actions have been effective, and to assure that no violation of policy AC persists or has been caused by the complaint or adjustment itself.
15. Students, employees and others will not be disciplined for speech in circumstances where it is protected by law.
16. The complainant's failure to file an appeal within the timelines given will be considered acceptance of the findings and remedial action taken.
17. To the extent permitted by law, the district will investigate all complaints, even if an outside enforcing agency such as the Office for Civil Rights, law enforcement or the CD is also investigating a complaint arising from the same circumstances.
18. The district will only share information regarding an individually identifiable student or employee with the person filing the complaint or other persons if allowed by law and in accordance with board policy.
19. Upon receiving a complaint, district administrators or supervisors, after consultation with the compliance officer, will implement interim measures as described in this policy if necessary to prevent further potential discrimination, harassment or retaliation during the pending investigation.
20. The district will immediately investigate all complaints. All persons are required to cooperate fully in the investigation. The district compliance officer or other designated investigator may utilize an attorney or other professionals to conduct the investigation. In determining whether alleged conduct constitutes discrimination, harassment or retaliation, the district will consider the surrounding circumstances, the nature of the behavior, the relationships between the parties involved, past incidents, the context in which the alleged incidents occurred and all other relevant information. Whether a particular action or incident constitutes a violation of this policy requires a determination based on all of the facts and surrounding circumstances.
21. If, after investigation, school officials determine that it is more likely than not (the preponderance of the evidence standard) that discrimination, harassment, retaliation or other prohibited behavior has occurred, the district will take immediate corrective action. The district will take prompt, effective and appropriate action to address the behavior, prevent its recurrence and remedy its effects.

22. Employees who violate this policy will be disciplined, up to and including employment termination. Students who violate this policy will be disciplined, which may include suspension or expulsion. Patrons, contractors, visitors or others who violate this policy may be prohibited from school grounds district property or otherwise restricted while on school grounds district property. The superintendent or designee will contact law enforcement or seek a court order to enforce this policy when necessary or when actions may constitute criminal behavior.

Complaint Procedure

1. *Level I* - A complaint is to be filed with the building principal/supervisor, who may assign as an assistant principal/designee to handle the matter. The principal/supervisor or designee will inform the compliance coordinator of the existence of the complaint and send a copy of the filed materials to the compliance coordinator. Within five (5) working days after submission of a complete complaint, the compliance officer or designee shall conduct an investigation, including such hearings or *ex parte* interviews as are reasonably necessary, including contacting witnesses identified by the complaint. Within 30 working days of receiving the complaint, the compliance officer or designee will then issue a written response to the complaint:
 - a. Summarizing the facts
 - b. Making conclusions on whether they constitute a violation of policy AC based on the appropriate, legal standards
 - c. If a violation of policy AC is found, the compliance officer will state what remedial action will be implemented at the school level or sought from the central administration, to address the discrimination, harassment or retaliation; prevent recurrence; and remedy its effects. The victim and the person who filed the complaint, if applicable, and any alleged perpetrator will be notified in writing, within five working days of the completion of the report. Notification is in accordance with law and district policy. The district's compliance officer or designee will determine whether the district policy was violated.
2. *Level II* - Within five (5) working days after receiving the *Level I* decision, appeal may be taken to the nondiscrimination compliance coordinator. The compliance coordinator will meet with the complainant as soon as workably possible to review the appellate materials, further discuss the complaint and take any additional evidence the complainant has to offer. The compliance coordinator may make additional investigations, including hearings or *ex parte* interviews, or may remand the complaint to level 1 for further investigations. Within five (5) working days, the compliance coordinator will issue a written response to the appeal summarizing his or her findings and stating what, if any, remedial actions will be recommended to the Superintendent and/ or the building-level administration for implementation.
3. *Level III* - Within five (5) working days after receiving the *Level II* decision, appeal may be taken to the superintendent. The superintendent may refer the matter to the superintendent, or outside counsel, to act as designee and prepare a final decision for signature and implementation. The superintendent or designee will review the appeal materials, conduct further investigations or hearings at the superintendent's or designee's discretion, and seek counsel if necessary. Within ten (10) working days, the superintendent will issue a written decision upon the appeal stating whether a

violation of policy AC is found and, if so, stating what remedial actions will be implemented. A copy of the appeal and decision will be sent to the compliance coordinator by the superintendent.

4. *Level IV* - Within five (5) working days after receiving the *Level II* decision, appeal may be taken to the Board of Education by filing the appeal with the superintendent. The matter will be placed on the agenda of the next scheduled meeting of the board for closed session unless law requires otherwise. The complainant will be allowed to address the board, and the board may call for the presence of such other persons as the board deems necessary to advise it on the matter and the maintenance of its compliance obligations. The board may conduct its procedure upon the appeal as it sees fit and shall normally render a written decision upon the appeal within thirty (30) working days, for implementation by the administration. For district purposes, and without waiving the right to take any actions later deemed necessary for nondiscrimination mandate compliance, the board's decision and any actions taken are final.

A copy of the appeal and decision will be sent to the compliance coordinator by the board secretary. Records of disciplinary actions for violations of policy AC are kept in the same manner as any other discipline record.

Student-on-Student Harassment

Building level administrators are in a unique position to identify and address discrimination, harassment and retaliation between students, particularly when behaviors are reported through the normal disciplinary process and not through a complaint. Administrators have the ability to immediately discipline a student for prohibited behavior in accordance with the district's discipline policy.

Administrators will report all incidents of discrimination, harassment and retaliation to the compliance officer and will direct the family/ guardian and student to the compliance officer who may determine that the incident has been appropriately addressed or recommend additional action. When a complaint is filed, the investigation and complaint process detailed above will be used.

Confidentiality and Records

Information may be disclosed if necessary to further the investigation, appeal or resolution of a complaint, or if necessary to carry out disciplinary measures. The district will disclose information to the district's attorney, law enforcement, the CD and others when necessary to enforce this policy when required by law. In implementing this policy, the district will comply with state and federal laws regarding the confidentiality of student and employee records. Information regarding any resulting employee or student disciplinary action will be maintained and released in the same manner as any other disciplinary record. The district will keep any documentation created in investigating the complaint including, but not limited to, documentation considered when making any conclusions, in accordance with the Missouri Secretary of State's retention manuals and as advised by the district's attorney.

Training

The district will instruct employees to make all complaints to the district's compliance officer

or Acting compliance officer and will provide current contact information for these persons. The district will inform employees of the consequences of violating this policy and the remedies the district may use to rectify policy violations. All employees will have access to the district's current policy, required notices and complaint forms. The district will provide additional training to any person responsible for investigating potential discrimination, harassment or retaliation.

Public Notice

The superintendent or designee will continuously publicize the district's policy prohibiting discrimination, harassment and retaliation and disseminate information on how to report discrimination, harassment and retaliation. A copy of this policy will be posted in a public area of each building used for instruction or employment or open to the public. A copy of this policy will also be made available electronically annually to employees, families or guardians, and students; as well as to newly enrolled students and newly hired employees. district bulletins, catalogs, application forms, recruitment material and the district's website will include a statement that the district does not discriminate in its programs, services, activities, facilities or with regard to employment. The district will provide information in alternative formats when necessary to accommodate persons with disabilities.

Date Issued by the Superintendent: July 11, 2000

Date Revised: August 10, 2010
June 26, 2012
December 13, 2016
May 26, 2020
July 23, 2024

Superintendent of Schools