# Nondiscrimination/Equal Opportunity

The District is committed to providing a safe learning and work environment where all members of the school community are treated with dignity and respect. It is critical to this commitment that anyone who may have experienced discrimination or harassment in the context of the district's educational programs, activities, or employment can report their concerns without fear of retaliation.

This policy AC and the implementing regulations are designed to foster a climate that provides preventative measures and encourages the reporting of discrimination and harassment and related retaliation. The district administrators will engage in prevention efforts, train the school community, respond to all complaints promptly, provide supportive measures, and develop fair and equitable processes to investigate and address complaints of discrimination and harassment, and related retaliation, and ensure all parties are treated fairly and impartially.

This policy defines prohibited conduct and guides individuals to the specific regulation governing the applicable reporting and response processes. Complaints of harassment or discrimination against a student should be made pursuant to AC-R-1. Complaints of harassment and discrimination against applicant, employees or community members should be made pursuant to AC-R-2. Complaints of bullying against a student based on their membership in a protected class should be made under AC-R-1. Complaints under Title IX should be made under AC-R-3. Supportive measures and prompt response time are required components of all regulations.

**Definitions**

- **"Bullying"** is any written or oral expression, physical or electronic act or gesture. Or a pattern thereof, that is intended to coerce, intimidate, or cause any physical, mental or emotional harm to another. Bullying is student-on-student behavior. The following policy has more details on the definition of bullying, the prevention process, and the reporting process:

    - Policy JICDE*, Bullying Prevention and Education

  If the bullying is based on a student's protected class, the behavior may constitute discrimination or harassment. Bullying based on a student's protected class should be addressed through the following regulation:

    - Regulation AC-R-1

- **"Protected classes"** include race, color, gender, sex, sexual orientation, gender identity or expression, transgender status, religion, national origin, immigration/citizenship status, ancestry, age, pregnancy, marital status, veteran status, disability, family composition and genetic information of an employee or applicant for employment.

For purposes of this policy and implementing regulations:

- **"Race"** includes hair texture, hair type, hair length, or a protective hairstyle, such as braids, locs, twists, tight coils or curls, cornrows, Bantu knots, afros, and headwraps, that is commonly or historically associated with race.
- **"Sexual Orientation"** means an individual's identity, (or another person's perception of their identity), thereof, in relation to the gender(s) to which the individual is sexually or emotionally attracted and the behavior or social affiliation that may result from the attraction.
- **"Gender Expression"** means an individual's way of reflecting and expressing gender to the outside world, typically demonstrated through appearance, dress, and behavior.
- **"Gender Identity"** means an individual's innate sense of the individual's own gender, which may or may not correspond with the individual's sex assigned at birth.
- **"Harassment"** is any unwelcome, physical or verbal conduct or any written, graphic, or visual communication directed at a student, employee, applicant, or member of the public based on their protected class that is objectively offensive to a reasonable individual who is a member of the same protected class, that also:
    - for a student, is either made a term or condition of access to educational services, is used or threatened to be used as a basis for educational decisions affecting the student, interferes with the student's ability to participate in the district's educational services, or creates an intimidating, hostile, or offensive educational environment;
    - for an applicant or an employee, is subjectively offensive to the individual alleging harassment, is made a term or condition of employment, is used as a basis for employment decisions affecting the individual, unreasonably interferes with the individual's work performance, or creates an intimidating, hostile, or offensive working environment;
    - ○ for a member of the community, is subjectively offensive to the individual alleging harassment, and unreasonably interferes with a community member's ability to participate in the district's services, activities, or opportunities.

    Whether conduct constitutes harassment depends on a number of factors, including, but not limited to**:**

    ○ the type, frequency, and duration of the conduct;
    ○ the number of individuals involved and their relationships;
    ○ the age and education level of individuals involved;
    ○ the location and context in which the conduct occurred;
    ○ whether the conduct is threatening or any real or perceived power differential exists;
    ○ any use of stereotypes, epithets, slurs, or degrading conduct or communication;
    ○ whether the conduct includes an act of physical violence;
    ○ the effect on the complainant's education or employment, if applicable.

● **"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 their protected class. Discrimination also occurs when the district fails or refuses to hire an employee, discharges an employee, or otherwise treats an employee differently with respect to compensation,

terms, conditions, privileges, opportunities, or status on the basis of their protected class. Harassment of a student, employee, or community member is a form of discrimination.

The following regulations have more details on harassment and discrimination and the related complaint process:

- AC-R-1 Harassment and Discrimination Investigation Procedure for Students
- AC-R-2 Harassment and Discrimination Investigation Procedure for Employees, Applicants for Employment and Members of the Public
- AC-R-3 Sexual Harassment Investigation Procedures under Title IX

● **"Retaliation"** is intimidating, threatening, coercing, or discriminating against an individual who has reported an incident of harassment, discrimination, or bullying. Retaliation includes charges against a student for code of conduct violations related to the incident for the purpose of punishing a student for making a report or otherwise interfering with a student's rights under this policy.

● **"Sexual Harassment"** under Title IX is conduct on the basis of sex that could include unwelcome sexual advances, requests for sexual favors, or other unwelcome physical or verbal conduct or communication of a sexual nature. Because Title IX's definition of sexual harassment is a federal standard, the definitions and procedures differ slightly from sexual harassment under state law. More information on sexual harassment can be found in the following policies and regulation:

- Policy GBAA, Sexual Harassment [for Staff]
- Policy JBB, Sexual Harassment [for Students]
- Regulation AC-R-3, Sexual Harassment Investigation Procedures under Title IX

● **"Respondent"** means a student or employee who has been reported to have engaged in conduct that could constitute harassment.

● **"Complainant"** means a student, employee, or community member alleged to have experienced discrimination or harassment. A complainant may or may not be the reporting party.

● **"Reporting Party"** means a person who raises a concern or allegation of discrimination or harassment on behalf of a complainant with the compliance officer. Any district student, employee, or community member may be a reporting party.

● **"Compliance Officer"** means the district employee who is responsible for coordinating and overseeing the district's discrimination and harassment prevention and response efforts. Among other responsibilities, the compliance officer will coordinate and oversee the district's discrimination and harassment investigation, consultation, recordkeeping, monitoring, and training processes. To facilitate this work, all district employees must inform the compliance officer of all reports and complaints raising discrimination and harassment issues implicating this policy. The compliance officer may appoint a designee to perform any of their assigned duties, including performing the investigation and issuing the report.

**"Supportive Measures"** are individualized services to restore or preserve equal access to education, protect student and employee safety, or deter harassment and discrimination. Supportive measures may

be provided regardless of whether a complaint has been filed. Supportive measures may include, but are not limited to:

- ○ Counseling;
- ○ extensions of deadlines or other course-related adjustments;
- ○ extra time for homework or tests;
- ○ the opportunity to resubmit homework or retake a test;
- ○ remedying an impacted grade; ○ excused absences;
- ○ the opportunity for home instruction;
- ○ modifications to class schedules; and
- ○ restrictions on contact between the parties to a complaint of harassment or discrimination.

● **"Title IX Coordinator"** means the employee designated by the district to coordinate its efforts to comply with Title IX of the Education Amendments and the district's Title IX program.

- ○ Title IX Coordinator: Darren Edgar, Superintendent, 17887 US Hwy 285, La Jara, CO 81140, 719-274-5174, dedgar@northconejos.com

**Harassment, Discrimination, and Retaliation Prohibited**

Discrimination, harassment, and bullying on the basis of protected class are prohibited at any district school, at any district or school-sanctioned activity or event, on any district property (or off school property when such conduct has a connection to the school), or any district curricular or non-curricular activity or event. Retaliation for reporting harassment or for participating in any way in an investigation of harassment or discrimination is also prohibited.

**District Action**

The district encourages anyone - students, parents and family members, volunteers, educators, or staff members - who witness bullying, harassment, discrimination, or retaliation to report the conduct by making a complaint in accordance with the appropriate regulation. All school staff who witness or receive complaints of harassment or discrimination are required to promptly share any such complaints with the compliance officer.

The district will take appropriate action to promptly and impartially investigate allegations of discrimination and harassment, to end unlawful behavior, to prevent the recurrence of such behavior, and to prevent retaliation against the individual who files the complaint and/or any person who participates in the investigation. When appropriate, the district will take additional action during the investigation to protect against further discrimination, harassment, or retaliation.

To the extent possible, all complaints of discrimination and harassment will be kept confidential. Students or employees who knowingly file false complaints or give false statements in an investigation may be subject to discipline, up to and including suspension/expulsion for students and termination of employment for employees. No student, employee, or member of the public may be subject to adverse treatment in retaliation for any good faith complaint of harassment or discrimination under this policy.

Upon determining that incidents of discrimination or harassment are occurring in particular district settings or activities, the district will implement measures designed to stop the discrimination or harassment and otherwise remedy the problem in those areas or activities.

Any student or employee who engages in discrimination or harassment will be disciplined according to applicable Board policies and the district will take reasonable action to restore lost educational or employment opportunities to the complainant(s) and others impacted.

The compliance officer will refer any potential criminal charges to law enforcement.

**Notice and Training**

The district will issue a written notice prior to the beginning of each school year that advises students, parents, employees, and the general public that the educational programs, activities, and employment opportunities offered by the district are offered without regard to disability, race, creed, color, sex, sexual orientation, gender identity, gender expression, family composition, marital status, national origin, religion, ancestry, or need for special education services. With respect to employment practices, the written notice will prohibit discrimination on the basis of age, genetic information, and conditions related to pregnancy or childbirth.

The announcement will also include the name, address, email address, and telephone number of the person(s) designated to coordinate Title IX, Section 504, and ADA compliance activities. Where possible, the notice will be disseminated to persons with limited English language skills in the person's own language. It will also be made accessible to persons who are visually or hearing impaired.

This policy and the implementing regulations, which include the complaint process, must be prominently posted on the district's website in plain language, and made available to all students, parents, and staff through electronic or hard-copy distribution. Training materials regarding sexual discrimination and sexual harassment are available to the public on the district's website.

Students and district employees will receive periodic training related to recognizing, reporting and preventing discrimination and harassment. District employees must receive additional training related to handling reports of discrimination and harassment.

The training will comply with Colorado state law and will include, but not be limited to, instruction on the following:

- Recognizing harassment or discrimination, including indicators of grooming and child sexual abuse;
- The appropriate immediate response when harassment or discrimination is reported to or witnessed by an employee;
- Reporting harassment or discrimination to the public school or school district.

*NOTE 1: SB23-296 requires that the policy and/or procedures protecting students from harassment must be made available in the following ways:*

- *displayed prominently on the district's website*

- *annually distributed electronically and separately from any other document to:*
  - *parents and guardians of all students*
  - *separately to students who are in sixth through twelfth grade*
- *provided via physical copy to each incoming student and their parent/guardian upon request*
- *annually distributed to employees*

*All policies distributed to parents/guardians or students must be available in Spanish upon request. State law also requires the policy posted on the district's website be in English, but specifies that the policy may also be posted in Spanish. C.R.S. 22-1-143.*

*Additionally, each public school is required to post notices in multiple places in the school, written in simple and age-appropriate language, describing how and to whom a student can report harassment or discrimination to the school. The notices must be conspicuously posted in easily accessible and well-lit places customarily frequented by students and employees. Bathroom stalls or hallways could be appropriate places to post notices.*

*In compliance with C.R.S. 22-1-143, the above requirements apply to student-focused policies – Policy AC and AC-R-1. However, the district may also choose to make AC-R-2 available to staff in the same manner.*

*NOTE 2: Although reports of harassment or discrimination are required to be confidential, districts are not prohibited from reporting known or suspected child abuse or neglect or reporting any other criminal activity to law enforcement, and are also not prohibited from providing records to law enforcement for the investigation or prosecution of a crime. C.R.S. 22-1-143(2)(b)*

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LEGAL REFS.: 20 U.S.C. 1681 (Title VII, Education Amendments of 1972)
20 U.S.C. 1701-1758 (Equal Employment Opportunity Act of 1972)
29 U.S.C. 621 et seq. (Age Discrimination in Employment Act of 1967)
29 U.S.C. 701 et seq. (Section 504 of the Rehabilitation Act of 1973)
42 U.S.C. 12101 et seq. (Title II of the Americans with Disabilities Act)
42 U.S.C. 2000d (Title VI of the Civil Rights Act of 1964, as amended in 1972)
42 U.S.C. 2000e (Title VII of the Civil Rights Act of 1964)
42 U.S.C. 2000ff et seq. (Genetic Information Nondiscrimination Act of 2008)
34 C.F.R. Part 100 through Part 110 (civil rights regulations)
C.R.S. 2-4-401 (3.4) (definition of gender expression)
C.R.S. 2-4-401 (3.5) (definition of gender identity)
C.R.S. 2-4-401 (13.5) (definition of sexual orientation)
C.R.S. 18-9-121 (bias-motivated crimes)
C.R.S. 22-1-143 (definition of harassment or discrimination)
C.R.S. 22-32-109 (1)(ll) (Board duty to adopt written policies prohibiting discrimination)
C.R.S. 22-32-110 (1)(k) (definition of racial or ethnic background includes hair texture, definition of protective hairstyle)
C.R.S. 24-34-301 et seq. (Colorado Civil Rights Division)
C.R.S. 24-34-301 (3.3) (definition of gender expression)
C.R.S. 24-34-301 (3.5) (definition of gender identity)
C.R.S. 24-34-301 (7) (definition of sexual orientation))
C.R.S. 24-34-402 et seq. (discriminatory or unfair employment practices)
C.R.S. 24-34-402(1.3)(a) (definition of "harass" or "harassment")
C.R.S. 24-34-402.3 (discrimination based on pregnancy, childbirth or related conditions; notice of right to be free from such discrimination must be posted "in a conspicuous place" accessible to employees)
C.R.S. 24-34-601 (unlawful discrimination in places of public accommodation)
C.R.S. 24-34-602 (penalty and civil liability for unlawful discrimination)

CROSS REFS.: GBA, Open Hiring/Equal Employment Opportunity
GBAA, Sexual Harassment
JB, Equal Educational Opportunities
JBB*, Sexual Harassment