Harassment and Discrimination Investigation Procedures for Employees, Applicants for Employment and Members of the Public

The district prohibits discrimination against any employee, applicant for employment, and members of the public. It is a violation of policy for any staff member or student to harass employees, applicants for employment, or members of the public, or to retaliate against those who report harassment or discrimination or participate in an investigation of harassment or discrimination. For the purposes of this regulation, **"harassment"** is any unwelcome conduct or communication directed at an individual because of their protected class, as described in Policy AC. The conduct or communication must be subjectively offensive to the individual alleging harassment and objectively offensive to a reasonable individual who is a member of the same protected class. The conduct or communication must meet at least one of the following: (i) submission to the conduct or communication is explicitly or implicitly made a term or condition of the individual's employment; (ii) submission to, objection to, or rejection of the conduct or communication is used as a basis for employment decisions affecting the individual; or (iii) the conduct or communication has the purpose or effect of unreasonably interfering with the individual's work performance or creating an intimidating, hostile, or offensive working environment.

The below grievance procedures provide for the fair, impartial, and prompt resolution of complaints of harassment or discrimination against employees, applicants for employment and members of the public.

Allegations of sex-based discrimination or sexual harassment arising under Title IX must follow the procedures specifically outlined in Policy AC-R-3.

Investigation Process

Throughout the investigation, the district will keep information related to the investigation confidential to the extent possible. The investigation will be fair, impartial, and prompt. The district will make a good faith effort to complete an investigation within sixty days after the complaint is made, with an additional thirty day extension possible for good cause. The compliance officer will attempt to adhere to all timelines. If the compliance officer needs more time with regard to any aspect of the investigation, they will notify the parties in writing as to the reason for the extension.

All parties will be treated equitably and will be provided equal opportunity to present evidence.

1. Making a Complaint

Any person who witnesses or experiences harassment, discrimination, or retaliation against employees, applicants for employment or community members, is encouraged to report the conduct by making a complaint with the district’s compliance officer.

Any staff member who receives information about, witnesses, or experiences harassment, discrimination or retaliation must report the incident to the district's compliance officer.

Complaints may be made by phone, by email, in person, or through an online form and should include a detailed description of the alleged event(s), the date(s) the alleged events occurred, and name(s) of the parties involved, including any witnesses. The complaint should be made as soon as possible after the incident.

- **Compliance Officer:** *Darren Edgar (719)-274-5174, dedgar@northconejos.com*
- **Complaint Form Link:** *www.northconejos.com*

No person can serve as the compliance officer in a matter in which they have a bias or conflict of interest with regard to the parties and/or the underlying conduct. If the compliance officer is alleged to have participated in prohibited conduct, complaints may be made to the following district employee.

- **Deputy Title IX Coordinator:** *Jesse Shawcroft (719)-274-5174, jshawcroft@northconejos.com*

Retaliation against the complainant, respondent, or any other person who filed a complaint or participated in an investigation is prohibited. Individuals found to have engaged in retaliatory behavior will be subject to disciplinary measures.

2. Evaluation by Compliance Officer

Before proceeding with the investigation, the compliance officer will review the complaint to determine whether the alleged conduct constitutes potential discrimination or harassment. The compliance officer may refer the matter back to the building principal or appropriate administrative department if the conduct alleged does not implicate a protected class or otherwise fit the characteristics of harassment or discrimination.

The compliance officer will refer any potential criminal charges to law enforcement. Upon the request of law enforcement, the compliance officer will delay action on a complaint for a reasonable amount of time to allow law enforcement to investigate the matter and will notify the parties of the delay. The compliance officer will not rely solely on a criminal investigation by a law enforcement agency in lieu of responding to a report of harassment or discrimination but may consider any evidence collected by law enforcement in making any determinations.

The compliance officer may assign any or all aspects of the investigation to a qualified alternate for any reason, including conflict of interest, bias concerns and/or insufficient capacity due to other matters.

As used in this regulation, the term "compliance officer" refers to the compliance officer or their designee.

3. Initial Meetings with the Parties

The following details actions to be taken by the compliance officer upon the determination that the underlying allegations, if proved to be true, constitute harassment or discrimination.

a. *Initial meeting with Reporting Party, if any, and Complainant:* Within five school days following receipt of the complaint, the compliance officer will meet with the complainant and any reporting party.

The purpose of the initial meeting is for the compliance officer to:

i. provide the complainant with the information detailed in paragraph (c) below; and
ii. collect any additional information necessary to complete the complaint and determine whether the allegations, if proven to be true, constitute discrimination or harassment.

If the compliance officer determines there is no merit to the allegations, the compliance officer may dismiss the complaint and will notify the complainant in writing. If the complaint is dismissed at this stage, the compliance officer may meet with the respondent to advise them of the allegations and offer supportive measures.

b. *Initial Meeting with Respondent:* As soon as possible after meeting with the complainant and any reporting party, the compliance officer will meet with the respondent and, if this individual is a student, their parents/guardians in order to obtain a response to the complaint. At the initial meeting, the compliance officer will advise the respondent as to the allegations against them and give the respondent a chance to respond to those allegations.

c. *Information Provided at the Initial Meetings:* The compliance officer will provide to both the complainant and respondent the same basic information, including:

i. available supportive measures
ii. copies of Board Policy AC and this implementing regulation;
iii. timeline for the investigation process and the district's legal obligations;
iv. the possibility of resolving the complaint informally upon agreement of all parties;
v. that information collected in the investigation is confidential, so long as confidentiality does not prevent the district from responding effectively to prohibited conduct and preventing future prohibited conduct; and
vi. all parties have a right to have an advisor present during all stages of the investigation.

4. Informal Complaint Resolution

When the compliance officer deems it appropriate, an informal resolution process may be instituted. The informal resolution process may involve mediation, arbitration, restorative justice, or settlement but may only be used if both parties are non-students and both parties agree. Agreement must be voluntary, non-coerced, and documented in writing. Informal resolution may not be used if the underlying offense involves sexual assault or other act of violence. No party will be forced to participate in informal resolution and either party may request an end to an informal process at any time.

If both parties feel a resolution has been achieved through informal resolution, no further action need be taken to resolve the complaint. However, within seven school days following the conclusion of the informal resolution process, the compliance officer must prepare a written report for the parties detailing the process and any agreed upon corrective or restorative measures provided, including any steps the district will take to prevent future discrimination or harassment. A copy of the report will be shared with the Board of Education.

5. Formal Complaint Resolution

If informal resolution is inappropriate, unavailable, or unsuccessful, the compliance officer will engage in formal complaint resolution. The compliance officer will proceed as follows:

a. *Collect Evidence*: The compliance officer will collect evidence, including, but not limited to: statements by any witness to the incident and any available physical or documentary evidence; evidence about the credibility of the parties involved; evidence about whether the respondent has engaged in other incidents of misconduct; evidence of the complainant and respondent's respective reactions or changes in behavior following the incident; and evidence regarding whether the complainant took action to protest the conduct. Evidence may be collected by interviews with parties and witnesses, reviewing information, requesting written statements, or other appropriate ways.

b. *Determination*: No later than fifty school days following receipt of the complaint, the compliance officer must prepare a written report which determines whether discrimination or harassment occurred.

   The compliance officer will apply the preponderance of the evidence standard, which means that it is more likely than not that the conduct occurred. In making this decision, all relevant circumstances must be considered by the compliance officer, including:

   i. the degree to which the conduct affected the complainant's ability to participate in or benefit from the school or work environment;
   ii. the type, frequency and duration of the conduct, recognizing that a single incident may rise to the level of harassment, and that conduct or

communication that, at one time, was or is welcome between two or more individuals may become unwelcome to one or more of those individuals;

iii. the number of individuals engaged in the conduct or communication;
iv. the identity of and relationship between the respondent and the complainant;
v. the location of the incident and context in which it occurred;
vi. whether the conduct was threatening;
vii. the use of epithets, slurs or other conduct that is humiliating or degrading;
viii. whether the conduct or communication reflects stereotypes about an individual or group of individuals in a protected class;
ix. any power differentials between the parties;
x. any other relevant circumstances.

Whether harassment has previously occurred in the district is not relevant as to whether the conduct or communication is discriminatory. Petty slights, minor annoyances, and lack of good manners do not constitute harassment, unless, combined, they impact an individual's employment or create a hostile environment as described in the definition of harassment.

The decision must include a determination of whether the respondent engaged in harassment or discrimination, an explanation of how and why the compliance officer reached the conclusions outlined in the report, a description of any supportive measures/disciplinary sanctions already taken, and recommendations for future disciplinary measures.

If the compliance officer is not the superintendent, the compliance officer's report is advisory and must not bind the superintendent or the district to any particular course of action or remedial measure.

If the compliance officer is the superintendent, the report will include the determination of any sanctions or other actions deemed appropriate, including suspension or expulsion, pursuant to Policy JKD/JKE and/or other appropriate corrective or restorative actions.

6. Disciplinary Measures and Outcome

As soon as practicable after receiving the compliance officer's findings and recommendations, the superintendent must determine any sanctions or other actions deemed appropriate, including suspension or expulsion, pursuant to Policy JKD/JKE and/or other appropriate corrective or restorative actions.

To the extent permitted by federal and state law, all parties must be notified in writing of the final outcome of the investigation no later than seven days following the superintendent's final determination.

Adoption Date: August 18, 2015
Revised: April 19 2016
Revised: August 18 2020
Revised: September 17 2024

Resources

Throughout the investigation, or after the investigation concludes, affected individuals may choose to use the following resources:

National Domestic Violence Hotline: 1−800−799−SAFE (7233)
National Sexual Assault Hotline: 1-800-656-4673
Colorado Department of Human Resources Domestic Violence Program:
https://cdhs.colorado.gov/dvp
Violence Free Colorado*: https://www.violencefreecolorado.org/*
The Crisis Center 24/7 Hotline: *303-688-8484*
Local resources for use by staff include: *[Insert local Resources]*

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)

NOTE 1: State law requires employers to maintain a repository of all written or oral complaints of discriminatory or unfair employment practices, including sexual harassment complaints. C.R.S. 24-34-408. The following information must be kept: date of the complainant, identity of the complaining party (if complainant was not made anonymously), the identity of the perpetrator, and the substance of the complaint. Additionally, districts must retain any related personnel or employment records for at least five years. This includes requests for accommodation, complaints, application forms submitted by applicants for employment, other records relating to hiring, promotion, demotion, transfer, layoff, termination, rates of pay or other terms of compensation, and selection for training or apprenticeship; and records of training provided to or facilitated for employees.