

Nondiscrimination/Equal Opportunity

(Complaint and Compliance Process)

The district shall respond to complaints of discrimination and/or harassment reported; 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 practical and appropriate under the circumstances. These actions shall apply to the extent permitted by law or where personal safety is not an issue. Under certain circumstances, the complaint may 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 informally or formally.

Definitions

The term "compliance officer" means an employee designated to act as such by the Board of Education. That individual shall be identified by name, address and telephone number. See exhibits ACE-E-1 and JBA-E. If the designated individual is not qualified or is unable to act as such the superintendent shall designate an administrator who shall serve until a successor is appointed by the Board.

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, a student over the age of 18, an employee of the district, or member of the public who is directly affected by an alleged violation of district policies prohibiting discrimination or harassment.

Compliance officer's duties

The compliance officer shall be responsible for conducting a confidential investigation and coordinating all complaint procedures and processes, whether the violation is alleged under Title II (discrimination based on disability), Title VI (discrimination based on race, color or national origin), Title IX (discrimination based on sex or marital status), Section 504 (discrimination based on disability) or under district policies prohibiting 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 available, dissemination upon request of information concerning the forms and procedures for the filing of complaints, investigation of all complaints and coordination of the hearing procedures.

Complaint procedure

An aggrieved individual who believes he or she has been subject to harassment or discrimination in violation of law and district policy is encouraged to report the incident as provided in board policy. All reports received by teachers, counselors, principals or other district employees shall be forwarded to the compliance officer.

Any aggrieved individual may file, with the compliance officer, a complaint charging the district, another student or any school employee with a violation of Title II, Title VI, Title IX or Section 504 or with a violation of district policies prohibiting discrimination or harassment. The complaint shall be in writing and shall describe with reasonable specificity the nature of the complaint.

Upon receiving a complaint, the compliance officer shall confer with the aggrieved individual as soon as is reasonably possible in order to obtain a clear understanding of the basis of the complaint and to discuss what action the aggrieved individual is seeking.

At the initial meeting, the compliance officer shall explain the avenues for informal and formal action and provide a description of the complaint process. The compliance officer shall also explain that whether or not the individual files a formal complaint or otherwise requests action, the district is required by law to take steps to correct the harassment and to prevent recurring harassment or retaliation against anyone who makes a harassment report or participates in an investigation. The compliance officer shall also explain that any request for confidentiality shall be honored so long as doing so does not preclude the district from responding effectively to the harassment and preventing future harassment.

Following the initial meeting with the aggrieved individual, the compliance officer shall attempt to meet with the alleged harasser and his or her parents/guardians, if the alleged harasser is a student, in order to obtain a response to the reported harassment.

Such person(s) shall be informed only of those facts which, in the compliance officer's judgment, are necessary to achieve a full and accurate disclosure of material facts or to obtain an informal resolution.

The compliance officer may consider the following types of information in determining whether unlawful 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 alleged harasser has been found to have harassed others.
- d. evidence of the aggrieved individual's reaction or change in behavior following the alleged harassment.
- e. evidence about whether the individual claiming harassment 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 sufficiently severe, persistent or pervasive to be 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 students' 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 alleged harasser and the aggrieved individual.

- d. the number of individuals involved as alleged harassers and as subjects of the harassment.
- e. the age of the alleged harasser and the aggrieved individual.
- f. the size of the school, location of the incident and context in which it occurred.
- g. other incidents at the school.

The compliance officer shall determine whether the matter should proceed formally or informally. At any time, the aggrieved individual may request an end to an informal process and begin the formal compliance process.

On the basis of the compliance officer's investigation and if the aggrieved individual requests that the matter be resolved in an informal manner and the compliance officer agrees that the matter is suitable for such resolution, the compliance officer may attempt to resolve the matter informally.

The compliance officer shall prepare a written report containing findings and recommendations, as appropriate, to the superintendent. 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.

Formal complaint process

If the aggrieved individual requests a formal complaint process, the compliance officer shall transfer the record within five school days to the superintendent or designee for formal resolution and so notify the parties by certified mail.

After reviewing the record made by the compliance officer, the superintendent or designee may gather additional evidence necessary to decide the case and/or determine that a hearing is necessary. At such time the matter should be referred to an administrative hearing officer for further fact-finding. The hearing officer will be an administrative employee of the district designated by the superintendent.

The hearing shall be informal. The hearing officer shall provide the affected person a written statement of charges, evidence and reasons supporting the proposed adverse action.

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 shall 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 recommendation to the superintendent based upon evidence presented at the administrative hearing.

Within 10 school days of receiving the record from the hearing, the superintendent or designee shall determine any sanctions or other action deemed appropriate, including recommendations to the Board for disciplinary or other action.

District action

Whether or not a formal complaint is filed, the district shall take appropriate action to end the harassment, to make the victim whole by restoring lost educational or employment opportunities, to prevent harassment from recurring and to prevent retaliation against anyone that reports harassment or participates in a harassment investigation.

All parties, including the parents/guardians of all students involved, shall be notified by the superintendent of the final outcome of the investigation and all steps taken by the district. If disciplinary action is recommended for a student or employee, that action shall proceed in accordance with applicable district policy. Remedial and/or disciplinary actions shall include measures designed to stop the harassment, correct its negative impact on the affected individual, and ensure that the harassment does not recur.

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.

(Adopted: Aguilar Re-6: July 21, 2009)

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