

*NOTE: Colorado school districts are required by law to adopt a regulation on this subject, some content in this sample reflects legal requirements school districts must follow. This sample contains the content/language that CASB believes best meets the intent of the law. However, the district should consult with its own legal counsel to determine appropriate language that meets local circumstances and needs.*

## **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.** The district shall **promptly** respond to **concerns and** complaints of **unlawful** discrimination and/or harassment; take action in response when **unlawful** 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 **unlawful** discrimination and/or harassment complaints **as 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 **unlawful** discrimination and/or harassment. Complaints **shall** be submitted **in writing.**

### **Definitions**

1. “Compliance officer” means an employee designated **by the Board to receive complaints of alleged unlawful discrimination and harassment.** The **compliance officer** shall be identified by name/**title**, address, telephone number **and email address.** See exhibit **AC-E-1.** If the designated individual is not qualified or is unable to act as such, the **Board** shall designate an administrator who shall serve until a successor is appointed.
2. “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 witness to** an alleged violation of **Board** policies prohibiting **unlawful** discrimination or harassment.

### **Compliance officer’s duties**

The compliance officer 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. The compliance officer’s duties shall include providing notice to students, parents/guardians of students, employees and the general public concerning the compliance process, **providing training for district staff 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, **coordinating** hearing procedures, **and identifying and addressing any patterns or systemic problems that arise during the review of complaints.** **The compliance officer 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 compliance officer. **If the compliance officer is the individual alleged to have engaged in the prohibited conduct, the complaint shall be forwarded to the Board of Education.**

Any aggrieved individual may file with the compliance officer a complaint charging the district, another student or any school employee with **unlawful discrimination or harassment**. **Complaints may be made orally or in writing. Persons who wish to file a written complaint shall be encouraged to use the form in AC-E-2.**

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

The compliance officer shall confer with the aggrieved individual **and/or the alleged victim of the unlawful discrimination or harassment** as soon as is reasonably possible, in order to obtain a clear understanding of the basis of the complaint.

Following the initial meeting with the aggrieved individual **and/or alleged victim**, the compliance officer shall attempt to meet with the **individual alleged to have engaged in the prohibited conduct and, if a student, his or her 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 meetings, the compliance officer shall explain the avenues for informal and formal action, provide a description of the complaint process, **and explain that both the victim 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 shall also explain that whether or not the individual files a **written** complaint or otherwise requests action, the district is required by law to take steps to correct the **unlawful discrimination or harassment** and to prevent recurring **unlawful discrimination**, harassment or retaliation against anyone who makes a 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 **prohibited conduct** and preventing future **prohibited conduct**.

### **Informal action**

**If the aggrieved individual and/or the individual alleged to have engaged in the prohibited conduct requests that the matter be resolved in an informal manner and/or 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 compliance action must 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 school employee and shall not be used between students where the underlying offense involves sexual assault or other act of violence.**

### **Formal action**

**If informal resolution is inappropriate, unavailable or unsuccessful, the compliance officer shall promptly investigate the allegations to determine whether and/or to what extent, unlawful discrimination or harassment has occurred.** 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 **and/or alleged victim's** reaction or change in behavior following the alleged **prohibited conduct**,
- e. evidence about whether the **alleged victim and/or aggrieved individual** took action to protest the conduct,
- f. evidence and witness statements or testimony presented by the parties involved,
- g. other contemporaneous evidence, **and/or**
- h. any other evidence deemed relevant by the compliance officer.

In deciding whether conduct is 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 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 alleged victim**,
- d. the number of individuals **alleged to have engaged in the prohibited conduct** and **number of victims** of the **prohibited conduct**,
- e. the age of the **individual alleged to have engaged in the prohibited conduct** and the aggrieved individual **and/or alleged victim**,

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

**Within 10 school days, the compliance officer shall prepare a written decision with specific factual findings and sanctions or other remedial action, including as appropriate, recommendations to the Board for disciplinary or other action.**

**To the extent permitted by federal and state law**, all parties, including the parents/guardians of all students involved, shall be notified **in writing** by the superintendent of the final outcome of the investigation and all steps taken by the district.

### **Hearing procedure**

**For allegations under Section 504 and as otherwise required by law, the aggrieved individual may request a hearing. This hearing procedure will not address guilt or innocence or disciplinary consequences which shall instead be governed by the Board's discipline policies and procedures.**

The hearing shall be informal. 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 **may** 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.

**Within 10 school days after the hearing, the hearing officer shall issue a written decision based upon evidence presented at the administrative hearing, including any remedial or corrective action deemed appropriate.** Remedial actions shall include measures designed to stop the **unlawful discrimination or harassment**, correct its negative impact on the affected individual, ensure that the **conduct** does not recur, **and restore lost educational opportunities.**

**Any party not satisfied with a decision made by the superintendent may present his/her concerns to the Board. Any action taken by the Board shall be final.**

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.

### **Outside agencies**

**Complaints regarding violations of Title VI, (race, national origin), Title IX (sex/gender), Section 504/ADA (handicap or disability), may be filed directly with the Office for Civil Rights, U.S. Department of Education, 1244 North Speer Blvd., Suite 310, Denver, CO 80204. Complaints regarding violations of Title VII (employment) and the ADEA (prohibiting age discrimination in employment) may be filed directly with the Federal Office of Equal Employment Opportunity Commission, 303 E. 17<sup>th</sup> Ave., Suite 510, Denver, CO 80202, or the Colorado Civil Rights Commission, 1560 Broadway, Suite 1050, Denver, CO 80202.**

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