

<b>Grievance Procedures for Discrimination, Harassment, Retaliation Complaints</b>	<b>J.5</b>
<i>Adopted: July 23, 2013 Revised: September 8, 2015; October 11, 2016</i>	

Definitions

- A. Complaint: A verbal or written complaint alleging any policy, procedure or practice which discriminates on the basis of race, color, sex, pregnancy, gender, gender expression or identity, national origin, religion, disability, veteran status, sexual orientation, age, or genetic information.
  
- B. Grievant: Any person enrolled in School District or employed by the District who submits a complaint alleging discrimination based on race, color, sex, pregnancy, gender, gender expression or identity, national origin, religion, disability, veteran status, sexual orientation, age, or genetic information. Sexual harassment is a prohibited type of sexual discrimination under Title IX for which a grievance under this policy can be filed with the Title IX Coordinator. For purposes of any complaint alleging a violation of Section 504, in addition to those identified as possible grievants in this paragraph, members of the public may also be potential grievants. For purposes of this policy, a parent's complaint or grievance shall be handled in the same manner as a student's complaint.
  
- C. Coordinator(s): The person(s) designated to coordinate efforts to comply with and carry out responsibilities under Title IX of the Education Amendments of 1972, the Americans with Disabilities Act of 1990 and the ADA Amendments Act of 2008, Title VII of the Civil Rights Act of 1964, as amended, Section 504 of the Rehabilitation Act of 1973 and any other state and federal laws addressing equal educational opportunity. The Coordinator under Title IX, ADA, Title VII and 504 is responsible for processing complaints and serves as moderator and recorder during hearings. The Coordinator of each statutory scheme may be the same person or different persons, but each coordinator will receive relevant training in order to perform his/her duties. A current listing of the district's Coordinators is found in policy A.5, on the district's website, and in district handbooks.
  
- D. Respondent: The person alleged to be responsible for the violation contained in a complaint. The term may be used to designate persons with responsibility for a particular action or those persons with supervisory responsibility for procedures and policies in those areas covered in the complaint.
  
- E. Day: Day means a working day when the District's main administrative offices are open. The calculation of days in complaint processing shall exclude Saturdays, Sundays and legal holidays.

## Filing and Processing Discrimination Complaints

- A. Grievant: Submits written or verbal complaint to the applicable Coordinator, stating name, nature and date of alleged violation; names of persons responsible (where known) and requested action. If the applicable Coordinator is the person alleged to have committed the discriminatory act(s), then the complaint should be submitted to the president of the Board of Education for assignment. Complaints must be submitted within 10 days of alleged violation. A Complaint form is available from the Superintendent's office.
  
- B. Applicable Coordinator or Board President: Conducts an investigation within 10 days to the extent reasonably possible, which would include but not be limited to, interviewing the complainant, any witnesses, review of any supporting documents and interviewing the respondent; and asks respondent to:
  - i) Confirm or deny facts;
  - ii) Indicate acceptance or rejection of student or employee's requested action;
  - iii) Outline alternatives; or
  - iv) Other action as may be indicated by the specifics of the Complaint.

The Coordinator will not delay the investigation of the discrimination complaint, even if an outside entity or law enforcement agency is investigating a complaint involving the same facts and allegations, and the Coordinator will not wait for the conclusion or outcome of a criminal investigation or proceeding to begin an investigation required by the district's grievance policy.

- C. Respondent: Submits written answer within 10 days to the applicable Coordinator.
  
- D. Applicable Coordinator: Within 5 days after receiving respondent's answer, applicable Coordinator schedules a hearing.
  
- E. Grievant, Respondent and Applicable Coordinator: Hearing is conducted. In circumstances involving allegations of sexual harassment, the applicable Coordinator may determine that it is appropriate and reasonable to separate the individual who is allegedly being sexually harassed from the alleged harasser in the hearing.
  
- F. Applicable Coordinator: Issues within 5 days after the hearing a written decision to the Grievant and Respondent. The report will include (a) a summary of facts, (b) an analysis of the appropriate legal standards applied to the facts, and (c) findings regarding whether the alleged discrimination occurred. If a finding is made that discrimination occurred, the Coordinator's report shall also contain (a) recommended interim and permanent steps, including examples of the range of possible disciplinary sanctions and

remedies available to address the discriminatory effects on the grievant and other, necessary to eliminate the discrimination, prevent its reoccurrence, and remedy its effects, as well as (b) the resources, including medical and counseling resources, that are available to students and witnesses. The decision will be based on a preponderance of evidence standard (i.e., it is more likely than not that the alleged discrimination occurred).

- G. Grievant or Respondent: If the Grievant or Respondent is not satisfied with the decision, he or she must notify the applicable Coordinator within 5 days and request, in writing, a hearing with the District's Superintendent. This step is applicable only to situations in which a Coordinator other than the Superintendent conducted the initial hearing.
- H. Superintendent: Schedules within 10 days of request a hearing with the Grievant and Respondent
- I. Superintendent, Grievant and Respondent: Hearing is conducted. At the hearing and as far as practicable, efforts should be made to prevent the Grievant and Respondent from personally questioning and cross-examining each other. Additionally, the Grievant and Respondent will be afforded similar rights (i.e., timely access to information that will be used at the hearing, opportunity to present his or her side of the story, presentation of character witnesses, review of party statements).
- J. Superintendent: Issues a written decision within 5 days following the hearing.
- K. Grievant or Respondent: If the Grievant or Respondent is not satisfied with the decision, they must notify the Superintendent, in writing, within 5 days and request a hearing before the Board of Education.
- L. Superintendent: Notifies Board of Education, in writing, within 5 days after receiving request. Superintendent schedules hearing with the Board of Education. Hearing is to be conducted within 30 days from the date of the Superintendent's notification to the Board of Education.
- M. Board, Grievant, Respondent, Superintendent and Applicable Coordinator: Hearing is conducted. Board issues a final decision at the hearing regarding the validity of the grievance and any action to be taken.

### General Provisions

- A. Duty of District Employees to Report Alleged Discrimination: District employees, supervisors and administrators are required to immediately report any complaints, reports, observations, or other alleged information of alleged discrimination, including harassment and retaliation, to the designated coordinator, even if that district employee is investigating the alleged discrimination as part of the district's student or employee disciplinary process, and provide the Complainant with information for filing a complaint form if requested, and contact information for the district's designated coordinator. If the district is using its disciplinary procedures to investigate and resolve an alleged discrimination complaint, those disciplinary

procedures will comply with the district's standards for a prompt and equitable grievance procedure.

- B. Extension of time: Any time limits set by these procedures may be extended by mutual consent of the parties involved. The total number of days from date that complaint is filed until complaint is resolved shall be no more than 120 days.
- C. Access to Regulations: Upon request, the District shall provide copies of any policies or rules prohibiting discrimination on the basis of race, color, sex, pregnancy, gender, gender expression or identity, national origin, religion, disability, veteran status, sexual orientation, age, or genetic information.
- D. Confidentiality of Records: Complaint records will remain confidential, to the extent allowed by law, unless permission is given by the parties involved to release such information. All complaint records will be kept separate from any other records of the District. No complaint record shall be entered in any personnel file unless adverse employment action is taken against an employee. Complaint records shall be maintained on file for four years after complaint resolution.
- E. Representation: The Grievant and the Respondent may have a representative assist them through the grievance process and accompany them to any hearing.
- F. Corrective Action: After all facts and circumstances are reviewed, the district shall take any and all disciplinary actions to prevent further harassment or discrimination. Possible disciplinary or remedial actions include, but are not limited to: education, training and counseling, transfer, and/or suspension of a student, and education, training, counseling, transfer, suspension and/or termination of an employee.
- G. Retaliation: No reprisals or retaliation will be allowed to occur as the result of the good faith reporting of a discrimination complaint. In the event an individual believes he or she has been retaliated against as a result of the exercise of rights protected by the Acts identified in I(C) of this policy – the individual may utilize this grievance procedure to pursue their claim of retaliation.
- H. Basis of Decision: At each step in the grievance procedure, the decision maker will take or recommend the taking of appropriate measures based on the facts, as revealed by the investigation and hearing, taken as a whole, and the totality of the circumstances, such as the nature, extent, context and gravity of the activities or incidents.
- I. Section 504 Due Process Procedures: For information concerning due process procedures under Section 504, the Grievant should contact the Superintendent.

Outside Assistance: Individuals may also file complaints alleging discrimination, harassment or retaliation with the Office of Civil Rights. The OCR may be contacted at:

U.S. Department of Education  
Office for Civil Rights  
One Petticoat Lane  
1010 Walnut Street, Suite 320  
Kansas City, MO 64106  
(816) 268-0550  
(816) 268-0599 (Fax)  
(877) 521-2172 (TTY)  
E-mail: [OCR.KansasCity@ed.gov](mailto:OCR.KansasCity@ed.gov)