

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 or harassment; take action to end unlawful discrimination or harassment when it is discovered and prevent its reoccurrence; impose appropriate sanctions on offender(s) in a case-by-case manner; restore lost educational or employment opportunities to the victim(s) in a case-by-case manner; and protect the privacy of all those involved in unlawful discrimination or harassment complaints as required by state and federal law. When appropriate, the complaint shall be referred to law enforcement.

The district has adopted the following procedures to promptly and fairly address concerns and complaints about unlawful discrimination or harassment. Complaints may be submitted orally or in writing.

Definitions

1. “Compliance officer” means an employee designated by the Board to receive complaints of alleged unlawful discrimination or harassment. The compliance officers 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 superintendent shall designate another district employee who shall serve until a successor is appointed by the Board.
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 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 investigating 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 or harassment in all district programs, activities and employment practices; disseminating information concerning the forms and procedures for the filing of complaints; ensuring the prompt and neutral investigation of all complaints, 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, in accordance with the Board policy and this regulation, to any of the following officials:

1. Your school principal or assistant principal,
2. The district’s compliance officer for Title IX/ADA/EEO/504 complaints involving employees or compliance officer for Title IX complaints involving students (identified in Board policy AC-E-1),

3. Any person on the superintendent's leadership team,
4. The superintendent.

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 superintendent who shall designate an alternate compliance officer to complete the complaint procedure.

Any aggrieved individual may file with the compliance officer a complaint charging the district, another student or any district 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 district's complaint form provided in Policy AC-E-2.

To the extent reasonably possible, complaints of unlawful discrimination or harassment shall include a detailed description of the alleged events or conduct, the dates the alleged events or conduct occurred, and names of the parties involved, including any witnesses. The complaint shall be made as soon as possible after the incident.

Initial meeting

The compliance officer or designee shall meet with the aggrieved individual and, if the aggrieved individual is not the alleged victim, then with the alleged victim of the unlawful discrimination or harassment as soon as reasonably possible, but no later than 10 school days following the district's compliance officer's receipt of the complaint in order to obtain a clear understanding of the basis of the complaint.

Within 5 school days following the initial meeting with the aggrieved individual and/or alleged victim, the compliance officer or designee shall attempt to meet with the individual alleged to have engaged in the prohibited conduct and, if a student, his or her parents/guardians.

During these initial meetings, the compliance officer or designee shall explain the avenues for informal and formal action, provide a description of the complaint process, review the need for and implementation of interim measures and availability of counseling services. 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 process

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 or designee believes that the matter is suitable to such resolution, the compliance officer or designee may attempt to resolve the matter informally through mediation, counseling or other non-disciplinary means. The compliance officer or designee shall explain that both the victim and the individual alleged to have engaged in prohibited conduct have the right at any time to request an end to the informal process and seek formal resolution of the matter. Informal resolution shall not be used to process complaints against a district employee and shall not be used between students where the underlying offense involves sexual assault or other act of violence.

If both parties feel a resolution has been achieved through the informal process, then no further compliance action must be taken and the compliance officer or designee shall document the conclusion of the informal process.

If the compliance officer believes that further action may be necessary to end unlawful behavior, to prevent its recurrence or to prevent retaliation against an individual who files a complaint and participates in the investigation, then the compliance officer shall conduct the full formal process.

Formal process

If informal resolution is inappropriate, unavailable or unsuccessful, the compliance officer or designee shall promptly and neutrally investigate the allegations to determine whether and/or to what extent, unlawful discrimination or harassment has occurred.

During the investigation, the compliance officer, or a designee, may gather and 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.

Prior to closing the investigation, the compliance officer or designee shall allow the individual alleged to have engaged in the prohibited conduct the opportunity to respond to the complaint.

In deciding whether there was a violation of law or policy, all relevant circumstances shall be considered by the compliance officer, including but not limited to:

- 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.

Investigative report

Upon concluding a formal investigation, but no later than 30 school days from the date the complaint was received by the compliance officer, the compliance officer shall prepare a written report containing findings as to whether the evidence gathered during the investigation established whether the alleged conduct occurred in violation of district policy (“Report”). The compliance officer shall ensure remedial action is taken, as appropriate.

To the extent permitted by federal and state law, within 10 school days following the compliance officer’s determination, all parties, including the parents/guardians, shall be notified in writing of the final outcome of the investigation and whether there has been a violation of district policy. When appropriate, the letter shall also identify whether remedial action was taken by the district to address the policy violation.

The compliance officer shall submit the Report to the superintendent within 5 school days following the date of the Report or within 10 school days following the successful conclusion of the informal resolution process. The superintendent or designee shall determine any sanctions or other action deemed appropriate, including recommendations to the Board for disciplinary or other employment action.

Appeal

Should the aggrieved individual or individual alleged to have engaged in the prohibited conduct disagree with the compliance officer’s findings, he, she, or they may appeal the compliance officer’s determination by submitting a written letter of appeal to the superintendent within 5 school days after receiving notification of the final outcome of the investigation. The written appeal shall state with specificity the appellant’s disagreements with the compliance officer’s decision but may not present new evidence unless such evidence was not reasonably discoverable at the time the party participated in the compliance officer’s investigation. The superintendent shall review the compliance officer’s Report and the written appeal and shall notify the parties in writing of a final decision within 15 school days of receiving the written appeal. The superintendent’s decision shall be final.

Outside agencies

In addition to, or as an alternative to, filing a complaint pursuant to this regulation, an aggrieved individual 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. Toll Free: 800-262-4845 English/Spanish. 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, Denver, CO 80203. Toll Free: 800-669-4000. Fax: 303-866-1085. TTY: 800-669-6820. Email: egov.eeoc.gov.eas

Colorado Civil Rights Division (CCRD), 1560 Broadway, Suite 1050, Denver, CO 80202. Toll Free: 800-262-4845. Telephone: 303-894-2997. Fax: 303-894-7830. Email: dora_CCRD@state.co.us

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Pueblo School District No. 60, Pueblo, Colorado

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