

## **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 must 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; protect the privacy of all those involved in unlawful discrimination or harassment complaints as required by state and federal law; and prevent retaliation against anyone who reports or participates in the investigation of unlawful discrimination or harassment. When appropriate, the complaint will 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. Complaints of sexual harassment prohibited by Title IX will be processed in accordance with Board Policy AC-R-2.

### **Definitions**

1. “Compliance officer” means a district employee designated by the Board to receive complaints of alleged unlawful discrimination or harassment. The compliance officer(s) shall be identified by name or title, address, telephone number, and email address. See Policy Exhibit AC-E-1. If the designated individual is not qualified or is unable to act as such, the superintendent will designate another district employee who will serve until a successor is appointed by the Board.
2. “Aggrieved individual” means 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 is 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 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 impartial 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, in accordance with the Board policy and this regulation, to a teacher, counselor, principal, district level administrator or the district's compliance officer (identified in Administrative Policy AC-E-1) and file a report or complaint as set forth in the regulation that accompanies this policy. :

All reports of unlawful discrimination or harassment received by teachers, counselors, principals, district level administrators or other district employees must be promptly forwarded to the district's compliance officer designated in Policy AC-E-1. If the compliance officer is the individual alleged to have engaged in the prohibited conduct, the complaint must be forwarded to the superintendent who will 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. When a complaint is filed verbally, the compliance officer may request that a report form be completed to facilitate an investigation of the allegations. Persons who wish to file a written complaint will be encouraged to use the district's form provided in Policy Exhibit AC-E-1.

To the extent reasonably possible, reports or complaints must 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 must be made as soon as possible after the incident.

## **Initial meeting**

Upon receiving the complaint, the compliance officer and/or designee will meet with the aggrieved individual and/or the alleged target 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 (unless otherwise agreed) in order to obtain a clear understanding of the basis of the complaint and to discuss what action the aggrieved individual is seeking.

Within 10 school days following the initial meeting with the aggrieved individual and/or alleged target of unlawful discrimination or harassment, the compliance officer or designee must attempt to meet with the individual alleged to have engaged in the prohibited conduct and, if the individual is a student, their parents/guardians in order to obtain a response to the complaint. Such person(s) must be informed of allegations presently known that, in the compliance officer's or designee's judgment, are necessary to achieve a full and accurate disclosure of material information or to otherwise resolve the complaint.

During these initial meetings, the compliance officer or designee must explain the avenues for informal and formal action, provide a description of the complaint process, and review the need for and implementation of interim measures. The compliance officer must also explain that, regardless of whether 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 must also explain that any request for confidentiality will be honored so long as doing so does not preclude the district from responding effectively to prohibited conduct and preventing future prohibited conduct. Notwithstanding the foregoing, teachers, counselors, 504/IEP coordinators and other necessary staff members will be provided information as to any interim measures, safety plans or supports offered to the alleged target of unlawful discrimination or harassment or the individual alleged to have engaged in the prohibited conduct so they can appropriately support the affected student(s).

### **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. No party may be compelled to resolve a complaint of unlawful discrimination or harassment informally. The compliance officer or designee will explain that both the alleged target of the unlawful discrimination or harassment and the individual alleged to have engaged in the prohibited conduct have the right at any time to end the informal process and seek formal resolution of the matter. Informal resolution may not be used to process complaints against a district employee and may not be used between students where the underlying offense involves sexual assault or other acts 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 will 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 may conduct the formal process.

### **Formal process**

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

The compliance officer or designee may gather and consider the following types of information in determining whether unlawful discrimination or harassment occurred:

1. Statements by any witness to the alleged incident;
2. Evidence about the relative credibility of the parties involved;
3. Evidence relative to whether the individual alleged to have engaged in prohibited conduct has been found to have engaged in prohibited conduct against others;

4. Evidence of the aggrieved individual and/or alleged target's reaction or change in behavior following the alleged prohibited conduct;
5. Evidence about whether the alleged target and/or aggrieved individual took action to protest the conduct;
6. Evidence and witness statements or testimony presented by the parties involved;
7. Other contemporaneous evidence; and/or
8. Any other evidence deemed relevant by the compliance officer.

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

1. The degree to which the conduct affected one or more student's education or one or more employee's work environment;
2. The type, frequency and duration of the conduct;
3. The identity of and relationship between the individual alleged to have engaged in the prohibited conduct and the aggrieved individual and/or alleged target;
4. The number of individuals alleged to have engaged in the prohibited conduct and number of aggrieved individuals and/or alleged targets of the prohibited conduct;
5. The age of the individual alleged to have engaged in the prohibited conduct and the ages of the aggrieved individual and/or alleged target;
6. The size of the school, location of the incident and context in which it occurred; and/or
7. Other incidents at the school or worksite.

### **Investigative report**

Upon concluding a formal investigation, but no later than 45 school days from the date the complaint was received by the compliance officer or 30 days following the termination of the informal resolution process, the compliance officer or designee will 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 and will recommend actions for remedial action as appropriate ("Report"). The compliance officer or designee will determine any sanctions or other action deemed appropriate, including recommendations to the Board for appropriate disciplinary or other employment action.

To the extent permitted by federal and state law, within 5 school days following the compliance officer's determination, all parties, including the parents/guardians, will 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 will also identify whether remedial action will be taken by the district to address the policy violation.

The compliance officer will ensure remedial action is taken, as appropriate. Remedial or corrective actions will 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, if required.

### **Appeal**

Should the aggrieved individual or individual alleged to have engaged in the prohibited conduct disagree with the compliance officer's findings, 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 will review the compliance officer's Report and the written appeal and will notify the parties in writing of a final decision within 15 school days of receiving the written appeal. The superintendent's decision is final.

### **Hearing procedure for allegations under Section 504**

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 are, instead, governed by the Board's discipline policies and procedures.

The district must retain a person to serve as the impartial hearing officer, who must be knowledgeable about Section 504 and/or the ADA, if applicable. The hearing must be informal and must be recorded. Formal rules of evidence do not apply. A student is entitled to be represented by their parent/legal guardian or by an attorney. An employee is entitled to be represented by an attorney or other representative of their choice. The complainant may appear at the hearing and is entitled to present testimony and other evidence. A district representative is likewise entitled to present testimony and other evidence. The hearing must be closed to the public.

Within 5 calendar days after the hearing, the hearing officer must issue a written decision based upon evidence presented at the administrative hearing, including any remedial or corrective action deemed appropriate. Remedial actions 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.

After the hearing officer has issued the decision, the recording of the hearing, all physical and documentary evidence, and all other items comprising the record of the hearing must be returned to the district.

Either party may seek review of the hearing officer's decision in a court of competent jurisdiction, in accordance with applicable law and applicable timelines for requesting such review.

Nothing contained herein may 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 applies, 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 will govern.

### **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. Telephone number: 303-844-5695. Fax number: 303-844-4303. TTY: 303-844-3417. Email address: OCR.Denver@ed.gov

Federal Office of Equal Employment Opportunity Commission (EEOC), 303 E. 17th Avenue, Suite 410, Denver, CO 80203. Telephone number: 800-669-4000. Fax number: 303-866-1085. TTY: 800-669-6820. Website: <https://publicportal.eeoc.gov/portal>

Colorado Civil Rights Division (CCRD), 1560 Broadway, Suite 825, Denver, CO 80202. Telephone number: 303-894-2997 or 800- 886-7675. Fax number: 303-894-7830. Email address: dora\_CCRD@state.co.us (general inquiries), dora\_CCRDIntake@state.co.us (intake unit)

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Pueblo School District No. 60, Pueblo, Colorado

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