

SECTION 100 – DISTRICT ORGANIZATION AND ADMINISTRATION

UNLAWFUL DISCRIMINATION/HARASSMENT

POLICY 107

ARTICLE 1 NON-DISCRIMINATION/EQUAL OPPORTUNITY

A. The District is committed to providing a safe learning and working environment where all members of the school community are treated with dignity and respect. The schools in the District are subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of race, creed, color, sex (which includes marital status), sexual orientation, national origin, religion, ancestry, disability or need for special education services. Accordingly, no otherwise qualified student, employee, applicant for employment or member of the public shall be excluded from participation in, be denied the benefits of or be subjected to unlawful discrimination in any District program or activity on the basis of race, color, national origin, ancestry, creed, religion, sex (which includes marital status), sexual orientation disability or need for special education services. Discrimination against employees and applicants for employment based on age is also prohibited in accordance with state and federal law. In keeping with these statements, the following shall be objectives of the District:

1. To promote the rights and responsibilities of all individuals as set forth in the state and federal constitutions, pertinent legislation and applicable judicial interpretations;
2. To encourage positive experiences in terms of human values for children and adults who have differing personal and family characteristics or who come from various socio-economic, racial and ethnic groups;
3. To consider carefully, in all decisions made which affect the schools, the potential benefits or adverse consequences that those decisions might have on the human relations aspects of all segments of society;
4. To utilize educational experiences to build each individual's pride in the community in which he or she lives;
5. To initiate a process of reviewing all policies and practices of the District in order to achieve the objectives of this policy to the greatest extent possible; and
6. To investigate and appropriately discipline staff and students found to be responsible for incidents of harassment or discrimination in violation of District policy.

B. Compliance Officer

Reference:

20 U.S.C. 1681 (Title IX of the Education Amendments of 1972).
20 U.S.C. 1701-1758 (Equal Employment Opportunity Act of 1972).
29 U.S.C. 621 et seq. (Age Discrimination in Employment Act of 1967).
29 U.S.C. 701 et seq. (Section 504 of the Rehabilitation Act of 1973).
42 U.S.C. 1201 et seq. (Americans with Disabilities Act).
42 U.S.C. 2000d (Title VI of the Civil Rights Act of 1964).
42 U.S.C. 2000e (Title VII of the Civil Rights Act of 1964 as amended).
34 C.F.R. Part 100.
C.R.S. 2-4-401 (13.5) Definition of sexual orientation.
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C.R.S. 24-34-602 Penalty and civil liability for unlawful discrimination.
Policies 306, 307, 403 and 404.
Adopted: 1/12/81; Revised 12/13/00, Revised 4/3/02, Revised 3/3/04, 10/15/07, 12/08/08

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The Superintendent shall serve as the District's Compliance Officer and Coordinator for Title IX and Section 504 and ADA compliance activities: Dr. James Walpole, Superintendent, P.O. Box 295, Bailey, Colorado 80421; phone (303) 838-7666 extension 1000.

C. Annual Notice

1. The District shall issue a written notice prior to the beginning of each school year that advises students, parents, employees and the general public that programs, activities and employment opportunities offered by the District are offered without regard to race, color, sex (which includes marital status), sexual orientation, religion, national origin, ancestry, creed, age, disability or need for special education services. The announcement shall also include the name/title, address and telephone number of the person designated to coordinate Title IX and Section 504 and ADA compliance activities.
2. The notice shall be disseminated to persons with limited English language skills in the person's own language. It shall also be made available to persons who are visually or hearing impaired.
3. The notice shall appear on a continuing basis in all District media containing general information including teachers' guides, school publications, recruitment materials, application forms, vacancy announcements, student handbooks, school program notices, summer program newsletters and annual letters to parents.

ARTICLE 2 HARASSMENT PROHIBITION

- A. Harassment by employees, students and third parties at any District school, on any District property, in any District vehicle, at any District or school-sanctioned activity or event, or off school property when such conduct has a nexus to the school, is strictly prohibited. For purposes of this policy, harassment is any unwelcome, hostile, and/or verbal, written, or physical behavior that:
 1. Results in physical, emotional or mental harm or damage to property;
 2. Is so severe, persistent, or pervasive that it creates an intimidating, hostile or threatening environment; or
 3. Substantially disrupts the orderly operation of the school.

Reference:

20 U.S.C. 1681 (Title IX of the Education Amendments of 1972).
20 U.S.C. 1701-1758 (Equal Employment Opportunity Act of 1972).
29 U.S.C. 621 et seq. (Age Discrimination in Employment Act of 1967).
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- B. Harassment based on a person's race, color national origin, ancestry, creed, religion, sex (which includes marital status), sexual orientation, disability or need for special education services is a form of discrimination prohibited by state and federal law. Preventing and remedying such harassment in schools is essential to ensure a non-discriminatory, safe environment in which students can learn, employees can work, and members of the public can access and receive the benefit of District facilities and programs. All such harassment by District Employees, students and third parties is strictly prohibited. Such harassment includes:
1. Make demeaning comments or remarks directly or indirectly, such as name-calling, racial slurs or "jokes", or physically threaten or harm an individual on the basis of race, color national origin, ancestry, creed, religion, sex (which includes marital status), sexual orientation, disability or need for special education services;
 2. Display visual or written material or deface school property or materials to demean the race, color national origin, ancestry, creed, religion, sex (which includes marital status), sexual orientation, disability or need for special education services of an individual or group; and/or
 3. Damage, deface or destroy private property of any person because of that person's race, color national origin, ancestry, creed, religion, sex (which includes marital status), sexual orientation, disability or need for special education services.
- D. All District employees and students share the responsibility to ensure that harassment does not occur at any District school, on any District property, in any District vehicle, at any District or school-sanctioned activity or event, or off school property when such conduct has a nexus to the school, or any District curricular or non-curricular activity or event.

Reference:

20 U.S.C. 1681 (Title IX of the Education Amendments of 1972).
20 U.S.C. 1701-1758 (Equal Employment Opportunity Act of 1972).
29 U.S.C. 621 et seq. (Age Discrimination in Employment Act of 1967).
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ARTICLE 3 SEXUAL HARASSMENT PROHIBITION

- A. Sexual harassment is recognized as a form of sex discrimination and thus a violation of the laws which prohibit sex discrimination. All such harassment by District Employees, students and third parties is strictly prohibited.
- B. For purposes of this policy, sex-oriented verbal “kidding,” pressure for sexual activity, repeated remarks to a person with sexual implications, unwelcome sexual advances (including patting, pinching or constant brushing against another’s body), requests for sexual favors or other unwelcome conduct of a sexual nature constitutes sexual harassment if:
 - 1. Submission to such conduct is made either explicitly or implicitly a term or condition of a person’s employment or educational development.
 - 2. Submission to or rejection of such conduct by an individual is used as the basis for employment or education decisions affecting such individual.
 - 3. Such conduct has the purpose or effect of unreasonably interfering with an individual’s work or educational performance or creating an intimidating, hostile or offensive working or educational environment.
- C. All District employees, non-employee volunteers or any persons who work subject to the control of school authorities, and students share the responsibility to ensure that sexual harassment does not occur at any District school, on any District property, at any District or school-sanctioned activity or event, or on school property when such conduct has a nexus to the school, or any District curricular or non-curricular activity or event.
- D. Sexual harassment committed by an employee of the District in the course of employment shall be deemed a breach of duty, and as such, shall subject the offending employee to disciplinary action including possible termination of employment.
- E. Sexual harassment committed by a student shall be considered a violation of the student conduct code and as such, shall subject the offending student to disciplinary action including possible suspension and/or expulsion.

Reference:

20 U.S.C. 1681 (Title IX of the Education Amendments of 1972).
20 U.S.C. 1701-1758 (Equal Employment Opportunity Act of 1972).
29 U.S.C. 621 et seq. (Age Discrimination in Employment Act of 1967).
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ARTICLE 4 REPORTING UNLAWFUL DISCRIMINATION AND/OR HARASSMENT

- A. The following steps are established for reporting and investigating employee reports of unlawful discrimination and/or harassment:
1. Any employee, applicant for employment or member of the public who believes he or she has been a victim of unlawful discrimination or harassment (including sexual harassment), or who has witnessed such unlawful discrimination or harassment, shall immediately report it to his/her administrator (Principal, Director) or District Compliance Officer (Superintendent) and file a formal complaint as set forth in Policy 306. The report of alleged discrimination and/or harassment shall be filed with the Superintendent if the allegation is against the Principal. Any allegations involving the Superintendent shall be filed with the Board of Education.
 2. The Principal or Director shall conduct a thorough investigation of the allegation and take necessary steps to protect the victim, to prevent further incidences, to invoke disciplinary consequences and, as appropriate, legal action against the perpetrator. The results of the Principal's investigation and resulting actions, including resulting disciplinary actions, shall be summarized in a written report and filed with the Superintendent within ten school days of the date the employee's report was filed.
 3. The Superintendent shall review any report of unlawful discrimination and/or harassment submitted to a Principal or Director as well as the Principal or Director's report summarizing the results of the investigation and resulting actions. The Superintendent, at his/her discretion, may conduct a further investigation and may overturn the decisions of the Principal or Director.
 4. The Superintendent shall report to the Board of Education, at its next regular meeting, any unlawful discrimination or harassment complaints filed and actions taken.
 5. Any individual filing a complaint of alleged unlawful discrimination/harassment may discuss the matter with the Superintendent and request further investigation protections, or determination of consequences for the perpetrator.
 6. Any employee who is the subject of an investigation and who retaliates against the victim filing the report or any witnesses shall be subject to severe penalties, including termination of employment.

Reference:

20 U.S.C. 1681 (Title IX of the Education Amendments of 1972).
20 U.S.C. 1701-1758 (Equal Employment Opportunity Act of 1972).
29 U.S.C. 621 et seq. (Age Discrimination in Employment Act of 1967).
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- B. The following steps are established for reporting and investigating student reports of unlawful discrimination and/or harassment:
1. Any student who believes he/she has been a victim of unlawful discrimination or harassment, or any student who has witnessed such unlawful discrimination or harassment, shall immediately report it to an administrator, counselor, teacher or School Compliance Officer (Principal) and file a formal complaint.
 2. The Principal shall investigate the alleged unlawful discrimination and/or harassment and take appropriate corrective action when a student or employee is found to be unlawfully discriminating or harassing the student. Corrective action includes taking necessary steps to end the discrimination, to prevent the discrimination from recurring, and to prevent retaliation against anyone who reports discrimination or participates in a discrimination investigation. The age of the student shall be considered when determining whether particular conduct occurred, whether it was unlawful discrimination or harassment, and in determining the appropriate response.
 3. Students found to be harassing a student or staff member shall be subject to suspension, other disciplinary action as determined by the Principal or possible expulsion. Incidences deemed to violate law shall be reported to the Park County Sheriff's office. Ethnic intimidation is a criminal offense and any incidences of such intimidation will be reported to the Park County Sheriff's office.
 4. The results of the Principal's investigation and resulting actions, including resulting disciplinary actions, shall be summarized in a written report and filed with the Superintendent within ten school days of the date the student report was filed .

ARTICLE 5 INTERIM ADMINISTRATIVE ACTION

- A. When appropriate, administrators shall take interim measures during the investigation of a harassment report to protect the alleged subject of the harassment from further harassment or retaliation.
- B. In cases involving possible criminal conduct, the Compliance Officer shall determine whether appropriate law enforcement officials should be notified.

Reference:

20 U.S.C. 1681 (Title IX of the Education Amendments of 1972).
20 U.S.C. 1701-1758 (Equal Employment Opportunity Act of 1972).
29 U.S.C. 621 et seq. (Age Discrimination in Employment Act of 1967).
29 U.S.C. 701 et seq. (Section 504 of the Rehabilitation Act of 1973).
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ARTICLE 6 DISTRICT ACTION FOLLOWING INVESTIGATION

- A. The District shall take appropriate action to end the unlawful harassment, to prevent its recurrence, to prevent retaliation against the individual making the report and anyone participating in the investigation and to restore lost educational opportunities to the harassed student or employment opportunities to staff. In addition, any student or employee who engages in harassment of another student or employee shall be disciplined according to applicable District policies. Steps shall be taken to ensure that victims of, and witnesses to, harassment are protected from retaliation. Further, students or employees who knowingly file false harassment complaints or give false statements in an investigation shall be subject to discipline, up to and including suspension/expulsion for students and termination of employment.
- B. No student, employee or member of the public shall be subject to adverse treatment in retaliation for any good faith report of harassment under this policy. To the extent possible, all reports of harassment will be kept confidential. Upon determination that incidents of harassment are occurring in particular District settings or activities, the District shall implement measures designed to remedy the problem in those areas or activities.

ARTICLE 7 NOTICE AND TRAINING

- A. To reduce harassment and ensure a respectful school environment, the Superintendent is responsible for providing notice of this policy to all District schools. The Policy shall be included into student and employee handbooks.
- B. Students and employees shall receive periodic training related to recognizing and preventing unlawful harassment. Employees shall receive additional training related to handling reports of harassment. The training shall include, but is not limited to:
1. Awareness of groups protected under state and federal law and or targeted groups, whether real or perceived;
 2. How to recognized and react to harassment; and
 3. Proven harassment prevention strategies.

Reference:

20 U.S.C. 1681 (Title IX of the Education Amendments of 1972).
20 U.S.C. 1701-1758 (Equal Employment Opportunity Act of 1972).
29 U.S.C. 621 et seq. (Age Discrimination in Employment Act of 1967).
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