

Board File: AC

NONDISCRIMINATION/EQUAL OPPORTUNITY

Proposed Revisions by Board of Education August 4, 2020

The District is committed to providing a safe learning and work environment where all members of the school community are treated with dignity and respect. Schools in the district are subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, sex, sexual orientation, national origin, religion, ancestry or eligibility 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 under any district program or activity on the basis of race, color, national origin, ancestry, creed, religion, sex, marital status, sexual orientation, gender expression or gender identity, disability or eligibility for special education services. Discrimination against employees and applicants for employment based on age, genetic information and conditions related to pregnancy or childbirth is also prohibited in accordance with state and/or federal law.

For purposes of this policy, these terms have the following meanings:

- **“Race” includes hair texture, hair type, or a protective hairstyle that is commonly or historically associated with race.**
- **“Protective Hairstyle” includes such hairstyles as braids, locs, twists, tight coils or curls, cornrows, bantu knots, afros, and head wraps.**
- **“Sexual Orientation” means a person’s orientation toward heterosexuality, homosexuality, bisexuality, or transgender status or another person’s perception thereof.**

This policy and **accompanying regulations** shall be used to address all concerns regarding unlawful discrimination and harassment, **including concerns regarding sexual harassment as defined by Title IX,** except those regarding sexual on-student harassment which are addressed in other Board policies listed in this policy's cross references. **Other nondiscrimination and anti-harassment Board policies may apply in certain circumstances, including Board Policies GBAA (Sexual Harassment), JBA (Nondiscrimination/Non-Harassment of Students), JBB (Nondiscrimination on the Basis of Disability), and JBC (Sexual Harassment Under Title IX and Other Prohibited Misconduct of a Sexual Nature).**

In keeping with these statements, the following shall be objectives of this school 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 this school district in order to achieve the objectives of this policy to the greatest extent possible.
6. To investigate and resolve promptly any complaints of unlawful discrimination and harassment.
7. To investigate and appropriately discipline staff and students found to be responsible for incidents of harassment or unlawful discrimination in violation of Board policy.

Annual notice

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 the educational programs, activities and employment opportunities offered by the district are offered without regard to race, color, sex, gender expression or gender identity, marital status, sexual orientation, religion, national origin, ancestry, creed, disability or eligibility for special education services. With respect to employment practices, the district shall also issue written notice that it does not discriminate on the basis of age, genetic information or conditions related to pregnancy or childbirth. The announcement shall also include the name, address, email address and telephone number of the individuals designated to coordinate Title IX and Section 504 and ADA compliance activities.

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.

The notice shall appear on a continuing basis in all district media containing general information, including: teachers' guides, school publications, the district's website, recruitment materials, application forms, vacancy announcements, student handbooks, school program notices, summer program newsletters and annual letters to parents.

Harassment is prohibited

Harassment based on a person's race, color, sex, gender expression or gender identity, marital status, sexual orientation, religion, national origin, ancestry, creed, disability or eligibility 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 nondiscriminatory, 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.

All district employees and students share the responsibility to ensure that harassment does not occur at any district school, on any district property, 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.

For purposes of this policy, harassment is any unwelcome, hostile and offensive verbal, written or physical conduct based on or directed at a person's race, color, sex, gender expression or gender identity, marital status, sexual orientation, religion, national origin, ancestry, creed, disability or eligibility for special education services that: (1) results in physical, emotional or mental harm, or damage to property; (2) is sufficiently severe, persistent, or pervasive that it interferes with an individual's ability to participate in or benefit from an educational program or activity or creates an intimidating, hostile or threatening environment; or (3) substantially disrupts the orderly operation of the school. ~~Board policy on sexual harassment will apply to complaints alleging sexual harassment.~~

Harassing conduct may take many forms, including but not limited to:

1. verbal acts and name-calling;
2. graphic depictions and written statements, which may include use of cell phones or the Internet;
3. other conduct that may be physically threatening, harmful or humiliating.

Sexual Harassment in Violation of Title IX

Certain forms of sexual harassment are specifically addressed by Title IX. Sexual harassment prohibited by Title IX means conduct on the basis of sex that satisfies one or more of the following:

1. **An employee of the District conditions the provision of an aid, benefit, or service of the District on an individual's participation in unwelcome sexual conduct;**
2. **Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District's education program or activity;**
3. **"Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).**

The District shall implement specific procedures consistent with the requirements of Title IX, including a Title IX Sexual Harassment Grievance Process.

Reporting unlawful discrimination and harassment

Any student who believes he or she has been a victim of unlawful discrimination or harassment as defined in Board policy, or who has witnessed such unlawful discrimination or harassment, shall immediately report it to an administrator, counselor, teacher or the district's compliance officer and file a complaint as set forth in the regulations which accompany this policy.

Any employee, applicant for employment or member of the public who believes he or she has been a victim of unlawful discrimination or harassment, or who has witnessed such unlawful discrimination or harassment, shall file a complaint with either an immediate supervisor or the district's compliance officer.

If the individual alleged to have engaged in prohibited conduct is the person designated as the compliance officer, an alternate compliance officer shall be designated to investigate the matter in accordance with this policy's accompanying regulation.

District action

All district employees who witness unlawful discrimination or harassment shall take prompt and effective action to stop it, as prescribed by the district.

The district shall take appropriate action to promptly and impartially investigate allegations of unlawful discrimination and harassment, to end unlawful behavior, to prevent the recurrence of such behavior and to prevent retaliation against the individual(s) who files the complaint and/or any person who participates in the investigation. When appropriate, the district shall take interim measures during the investigation to protect against further unlawful discrimination, harassment or retaliation.

To the extent possible, all reports of unlawful discrimination or harassment will be kept confidential. Students or employees who knowingly file false 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. 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.

Upon determining that incidents of unlawful discrimination or harassment are occurring in particular district settings or activities, the district shall implement measures designed to remedy the problem in those areas or activities.

Any student or employee who engages in unlawful discrimination or harassment shall be disciplined according to applicable Board policies and the district shall take reasonable action to restore lost educational or employment opportunities to the victim(s).

In cases involving potential criminal conduct, the compliance officer shall determine whether appropriate law enforcement officials should be notified.

Notice and training

To reduce unlawful discrimination and harassment and ensure a respectful school environment, the administration is responsible for providing notice of this policy to all district schools and departments. The policy and complaint process shall be referenced in student and employee handbooks and otherwise available to all students, staff, and members of the public through electronic or hard-copy distribution. **Training materials regarding sexual harassment under Title IX shall be made available to the public on the District's website.**

Students and district employees shall receive periodic training related to recognizing and preventing unlawful discrimination and harassment. District employees shall receive additional training related to handling reports of unlawful discrimination and harassment. The training will include, but not be limited to:

- awareness of groups protected under state and federal law and/or targeted groups;
- how to recognize and react to unlawful discrimination and harassment; and
- proven harassment prevention strategies.

Adopted: July 21, 1992

Revised: April 7, 1998, to reflect current law

Revised: November 1999, to reflect current law

Revised: November 19, 2002

Revised cross references: June 30, 2004

Revised: September 2, 2008

Revised: September 3, 2019

LEGAL REFS.:

20 U.S.C. §1681 (Title VII, 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. §12101 et seq. (Title II of the Americans with Disabilities Act)

42 U.S.C. §2000d (Title VI of the Civil Rights Act of 1964, as amended in 1972)

42 U.S.C. §2000e (Title VII of the Civil Rights Act of 1964)

42 U.S.C. §2000ff et seq. (Genetic Information Nondiscrimination Act of 2008)

34 C.F.R. Part 100 through Part 110 (civil rights regulations)

C.R.S. 2-4-401_(13.5) (definition of sexual orientation, which includes transgender)

C.R.S. 18-9-121 (bias-motivated crimes)

C.R.S. 22-32-109 (1)(II) (Board duty to adopt written policies prohibiting discrimination)

C.R.S. 24-34-301 et seq. (Colorado Civil Rights Division)

C.R.S. 24-34-301 (7) (definition of sexual orientation, which includes transgender)

C.R.S. 24-34-402 et seq. (discriminatory or unfair employment practices)

C.R.S. 24-34-402.3 (discrimination based on pregnancy, childbirth or related conditions; notice of right to be free from such discrimination must be posted "in a conspicuous place" accessible to employees)

C.R.S. 24-34-601 (unlawful discrimination in places of public accommodation)
C.R.S. 24-34-602 (penalty and civil liability for unlawful discrimination)

CROSS REFS.:

GBA, Equal Employment Opportunity
JBA, Non-Discrimination/Non-Harassment of Students

JBC, Sexual Harassment Under Title IX and Other Prohibited Misconduct of a Sexual Nature

AC-R-1, Nondiscrimination/Equal Opportunity (Complaint and Compliance Process)

AC-R-2, Title IX Sexual Harassment Grievance Process