

**Equal Opportunity**

**Prohibition Against Harassment, Discrimination and Retaliation**

Harassment or discrimination because of an individual's race, color, national origin, ancestry, religion, sex, disability, age, genetic information, or any other characteristic protected by law is prohibited in this District. The District also prohibits retaliation against a person who files a complaint of discrimination or harassment or participates in an investigation of allegations of harassment or discrimination.

This Regulation governs and outlines the procedure for filing a complaint of harassment or discrimination based on a protected classification by students, employees, parents, and patrons of the District. Students with a complaint regarding the identification, evaluation, educational program, or placement of a child with a disability under Section 504 of the Rehabilitation Act of 1973 should be filed in accordance with the procedures outlined in Regulation 2110.

**DISTRICT'S COMPLIANCE OFFICER**

The following person has been designated as the District's Compliance Officer to handle inquiries or complaints regarding the District's non-discrimination policies:

Name: Larry L. Brown  
Title: Superintendent of Schools  
Address: P.O. Box 409, Marionville, MO 65705  
Telephone Number: 417-258-7755

The District has designated the Compliance Officer with the responsibility to identify, prevent, and remedy unlawful discrimination and harassment in the District. The Compliance Officer is in charge of assuring District compliance with this Policy and Regulation, Title IX of the Education Amendments of 1972; Title VII of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; as well as other state and federal nondiscrimination laws.

The Compliance Officer will:

1. \*Receive complaints of discrimination or harassment based on an individual's race, color, national origin, ancestry, religion, sex, disability, age, genetic information, or any other characteristic protected by law.
2. Oversee the investigative process.
3. Assess the training needs of District staff and students in connection with the dissemination, comprehension, and compliance with this Regulation.

4. Arrange for necessary training required for compliance with this Regulation.
5. Insure that investigations are conducted by an impartial investigator.
6. In the event the complaint is about the Compliance Officer or Compliance Officer's immediate supervisor, the District will consider appointment of an outside investigator.

\*If any complaint involves the Compliance Officer, the Complaint shall be filed directly with the Superintendent or President of the Board of Education.

## **DEFINITIONS**

For the purpose of this Regulation and Policy 1300, the following terms are defined:

*Compliance Officer:* The District employee(s) designated by the Board of Education to coordinate the District's compliance with District policy, Missouri statutes, and federal laws regarding discrimination, harassment and retaliation based on an individual's race, color, national origin, ancestry, religion, sex, disability, age, genetic information, or any other characteristic that is protected by law.

*Disability:* A physical or mental impairment that substantially limits a major life activity.

*Discrimination:* Adverse conduct directed at an individual or group based on race, color, national origin, ancestry, religion, sex, disability, age, genetic information, or any other characteristic that is protected by law. The encouragement, cooperation, coercing, or support of adverse conduct that is based on race, color, national origin, ancestry, religion, sex, disability, age, genetic information, or any other characteristic that is protected by law is discrimination.

*Harassment:* Harassment is conduct, including but not limited to, intimidation, ridicule or insult, toward an individual or group because of race, color, national origin, ancestry, religion, sex, disability, age, genetic information, or any other characteristic that is protected by law and is so severe or pervasive that it:

- Affects an individual's ability to work in, participate in, or benefit from an educational program or activity; and
- Creates an intimidating, threatening, abusive hostile or offensive environment; or
- Has the purpose or effect of substantially or unreasonably altering the work or educational environment.

For the purposes of this Regulation, sexual harassment is defined as unwelcome conduct of a sexual nature or based upon sex when a) benefits or decisions are implicitly or explicitly conditioned upon submission to, or consequence is applied for refusing to comply with, unwelcome sexual advances, requests for sexual favors or conduct of a sexual nature; or b) the

school or work environment becomes permeated with intimidation, ridicule or insult that is based on sex or is sexual in nature and that is sufficiently severe or pervasive enough to alter the conditions of participation in the district's programs and activities or the conditions of employment.

A student regardless of age cannot consent to behavior of a sexual nature with an adult irrespective of the circumstances.

*Retaliation:* Adverse conduct including, but not limited to, conduct of a coercive, intimidating, threatening, discriminatory, or harassing nature because of an individual's good faith complaint, participation in the investigation, testifying, or resolution of discriminatory or harassing conduct based on an individual's race, color, national origin, ancestry, religion, sex, disability, age, genetic information, or any other characteristic that is protected by law.

*Student:* An individual that is currently enrolled as a student of the District.

### **Illustrations and Examples of Prohibited Harassment**

For the purpose of this Regulation and Policy 1300 the determination if conduct as unwelcome is a fact-intensive question that shall be considered on a case-by-case basis.

### **Examples of Sexual Harassment**

Sexual harassment may include a range of subtle and not-so-subtle behaviors and may involve individuals of the same or different gender. Legitimate, non-sexual physical conduct necessary to avoid physical harm to persons or property, to console an individual, or spontaneous movement during a sporting activity is not sexual harassment.

Depending on the circumstances, examples of conduct, which may constitute sexual harassment as defined in this Regulation, include, but are not limited to:

- sexual advances;
- request for sexual favors;
- threatening an individual for not agreeing to submit to sexual advancement;
- sexually motivated touching of an individual's intimate parts;
- coercing, forcing, or attempting to coerce or force the touching of an individual's intimate parts;
- display of drawings, graffiti, cartoons, pictures, symbols or other written material of a sexual nature;
- sexual gestures;

- sexual or dirty jokes;
- sexually provocative or explicit speech;
- communications about or rating an individual as to his/her body, sexual activity, or performance; and
- verbal abuse of a sexual nature.

### **Examples of Race, Color, Nation Origin, Ancestry, Religion, Disability, Age or Genetic Information Harassment**

As defined in this Regulation, examples of conduct that may be considered harassment based on an individual's race, color, national origin, ancestry, religion, disability, age, or genetic information, or any other characteristic that is protected by law include, but are not limited to:

- display of drawings, graffiti, cartoons, pictures, symbols or other written material;
- jokes;
- gestures;
- slurs, derogatory stereotypes or remarks, rumors, name-calling, insults, teasing, or taunting;
- threats or intimidating conduct;
- hostile action, physical aggression or violence; and
- damage or theft of property.

### **OBLIGATION TO REPORT**

The District is steadfastly committed to providing an inclusive environment that is free from discrimination and harassment for all of its students and staff. Unless a concern is informally resolved, staff and students shall report all incidents of discrimination, harassment and retaliation to the Compliance Officer as set forth in this Regulation. When a formal complaint is filed with the Compliance Officer, the investigation and complaint process detailed below will be used, including a possible determination by the Compliance Officer that the incident has been appropriately addressed through the informal process. Reports of discrimination, harassment and/or related retaliation must contain as much specific information as possible to allow for proper assessment of the nature, extent and urgency of preliminary investigative procedures.

## **INTERIM MEASURES**

The District will take action to protect a complainant or persons subjected to discrimination, harassment, or retaliation as necessary during the course of an investigation. Appropriate interim measures will be offered and may include, but are not limited to, physical separation, contact limitations, reassignment, alternative work or assignments, altering class or bus seating assignments, additional supervision, counseling, training, warning, conferences, exclusion and employee suspension pending an investigation as permitted by the District's policies and law. Additional interim measures to prevent retaliation may include, but are not limited to, notification of the retaliation prohibition, confirming the individual knows how to report retaliation, and follow-up contact.

## **INVESTIGATION AND RESPONSE**

The District will investigate allegations of harassment, discrimination, and/or retaliation and take appropriate steps reasonably calculated to resolve the situation, eliminate the misconduct, prevent its recurrence and as appropriate, remedy its effects. The District will take equitable and remedial action within its authority on complaints that come to the attention of the District, either formally or informally.

Allegations of criminal misconduct will be reported to law enforcement and suspected child abuse will be reported to law enforcement and/or the Children's Division. Regardless of whether the misconduct is reported to law enforcement and/or the Children's Division, school staff will investigate to determine what occurred and take appropriate steps to resolve the situation, to the extent that such investigation does not interfere with an ongoing criminal investigation.

Engaging in harassment, discrimination, and/or retaliation will result in appropriate discipline or other appropriate sanctions against offending students, staff or other third parties involved in District activities. Anyone else who engages in harassment, discrimination, and retaliation on school property or at school activities will have their access to school property and activities restricted, as appropriate.

Employees and students should fully cooperate with investigation process.

### **Informal Process for Resolution**

The District takes seriously the obligation to investigate complaints of discrimination, harassment, or retaliation and to take appropriate remedial measures when necessary. The District recognizes that the obligation to investigate and remedy may be accomplished through an informal process, depending on the circumstances.

Anyone may use informal procedures to report and resolve complaints of harassment, discrimination, and retaliation. If a staff member receives an informal complaint of harassment, discrimination, and/or retaliation and the complaint cannot be resolved informally, the staff

member shall inform their relevant building administrator or supervisor. The administrator/supervisor may attempt to resolve the matter informally and should inform complainants of Policy & Regulation 1300.

Building administrators/supervisors shall provide information to the Compliance Officer on a regular basis about complaints reported and resolved through the informal process.

Informal complaints may become formal complaints at the request of the complainant, parent/guardian, or the District.

During the course of the informal complaint process, the District will take prompt and effective steps reasonably calculated to end the harassment, discrimination, and retaliation and to correct any effects on the complainant.

Informal remedies may include, but are not limited to:

- If the complainant so desires, an opportunity for the complainant to explain to the alleged harasser that his or her conduct is unwelcome, offensive or inappropriate, either in writing or face-to-face;
- A statement from a staff member to the alleged harasser that the alleged conduct is not appropriate and could lead to discipline if proven or repeated;
- A general public statement from an administrator in a building reviewing the District's nondiscrimination and harassment policy without identifying the complainant;
- Developing a safety plan;
- Separating students; or
- Providing staff and/or student training.

The District will inform the complainant (and their parent/guardian when applicable) how to report any subsequent problems. Additionally, the District may conduct follow-up inquiries to see if there have been any new incidents or instances of retaliation, and to promptly respond and appropriately address continuing or new problems.

## **Formal Process for Resolution**

### **Step One – Complaint to District**

Anyone may initiate a formal complaint of harassment, discrimination, or retaliation by filing a written complaint with the District's Compliance Officer. At any step in the formal resolution process, where appropriate, the District will take interim measures to protect the complainant or alleged victim before the final outcome of the District's investigation. Additionally, the District may appoint an outside investigator at any step of the informal or formal resolution process. A subordinate shall not investigate his/her supervisor.

The following process will be followed at Step One:

#### Filing of Complaint

- All formal complaints will be in writing and will set forth the specific acts, conditions or circumstances alleged to have occurred and to constitute harassment, discrimination or retaliation. The Compliance Officer may draft the complaint based on the report of the complainant for the complainant to review and approve. The Compliance Officer may also conclude that the District needs to conduct an investigation based on information in his or her possession, regardless of the complainant's interest in filing a formal complaint.
- Formal complaints must be submitted to the Compliance Officer.
- A charge or complaint of discrimination, harassment, or retaliation filed with an outside agency does not constitute a formal complaint or trigger an obligation to follow the formal complaint investigation procedures as contemplated under this Regulation.

#### Investigation of Complaint

- The Compliance Officer will receive and investigate all formal, written complaints of harassment, discrimination or retaliation or will investigate if information in the Officer's possession leads them to believe further investigation is required. The Compliance Officer will delegate his or her authority to participate in this process if such action is necessary to avoid any potential conflicts of interest. Upon receipt of a complaint, the Compliance Officer will provide the complainant a copy of this Regulation.
- Investigations will be carried out in a manner that is adequate in scope, reliability and impartiality. During the investigation process, the complainant and accused party or parties, if the complainant has identified an accused party, will have an opportunity to identify witnesses and present relevant evidence. The District and complainant may also agree to resolve the complaint in lieu of an investigation.
- When the investigation is completed, the Compliance Officer will compile a written report of the investigation. The report may include a recommendation of appropriate action to remedy the allegations included in the complaint. The Compliance Officer will forward the report and recommendations to the Superintendent. If the Superintendent is the subject of the complaint, the report and recommendations will be forwarded to the Board President.

### Response to Complaint

- The Superintendent will review the report completed by the Compliance Officer.
- The Superintendent will respond in writing with a Letter of Outcome to the complainant and the accused party within **thirty (30)** calendar days of the Compliance Officer's receipt of the written complaint, unless otherwise agreed to by the complainant or if circumstances related to the complaint require an extension of the time limit. In the event an extension is needed, the District will notify the complainant in writing of the reason for the extension and the anticipated response date.
- The Letter of Outcome will include: 1) a statement of the outcome of the investigation including whether a preponderance of the evidence establishes that harassment, discrimination, and/or retaliation occurred in violation of Policy 1300; 2) if violation of Policy 1300 is found to have occurred, the assurance that the District will take steps to prevent recurrence and remedy its effects on the complainant and others, if appropriate; and 3) notice of the right to appeal to the school board and the necessary filing information.
- Any corrective measures deemed necessary will be instituted as promptly as reasonable.
- The District will inform the complainant (and their parent/guardian if the complainant is a student) how to report any subsequent problems. Additionally, where appropriate the District will conduct follow-up inquiries to see if there have been any new incidents or instances of retaliation, and to respond and appropriately address continuing or new problems.
- If the Superintendent is the subject of the complaint, the actions set forth herein to be completed by the Superintendent will be completed by the Board President.

### Step Two – Appeal to Board of Education

#### Notice of Appeal

- The complainant or accused party may appeal to the Board of Education by filing a written notice of appeal with the secretary of the Board within **ten (10)** calendar days following receipt of the Letter of Outcome.
- On receipt of the written appeal, the matter shall be placed on the agenda of the Board for consideration not later than their next regularly scheduled meeting, unless otherwise agreed to by the complainant and the superintendent or for good cause.

- Parties will be allowed to provide comment and information as the Board deems relevant and material.

#### Board Decision

- Unless otherwise agreed to by the appealing party, the Board will provide written notice of its determination within **thirty (30)** calendar days following the filing of the notice of appeal and provide the appealing party with a copy of the determination.

### **RETALIATION**

The District prohibits retaliation against a person who files a complaint of discrimination or harassment, and further prohibits retaliation against a person who participates in related proceedings or investigations.

Notwithstanding this provision, employees or students found to have intentionally made false or materially misleading allegations of suspected discrimination, harassment and/or related retaliation under this Regulation may be disciplined, up to and including dismissal or expulsion.

### **CONFIDENTIALITY**

The District will respect the privacy of the complainant, the individuals against whom the complaint is filed, and the witnesses to the extent possible, consistent with applicable law, the District's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations. However, pursuant to the District's discretion, information may be disclosed, if necessary, to aid in the investigation, resolution, or appeal of the complaint.

### **CONSEQUENCES AND REMEDIES**

The District will take prompt, effective and appropriate action to address substantiated discrimination, harassment or retaliation, prevent its recurrence and remedy its effects.

#### **Consequences**

Consequences for violations of this Policy and Regulation may have educational, restorative, rehabilitative and/or punitive components.

Conduct constituting harassment, discrimination or retaliation as defined in this Regulation will be subject to discipline including, but not limited to, written warning or reprimand, conference, required training, "no contact" order, reassignment, probation, suspension or termination for employees, suspension or expulsion for students, or exclusion from District property.

In the event that the evidence suggests that the conduct at issue is also a crime in violation of a Missouri criminal statute, the District Compliance Officer shall report the conduct to the appropriate law enforcement agency charged with responsibility for handling such crimes.

As required by and in compliance with law and District policy, a report will be made to the Missouri Children's Division if there is reasonable cause to suspect abuse or neglect of a child.

Students, employees and others will not be disciplined for speech in circumstances where it is protected by law.

**Remedies**

The District will consider remedies for the victim as appropriate including, but are not limited to, providing additional resources such as counseling, moving or reassignment of the perpetrator, or allowing the victim to retake or withdraw from a class.

An allegation of discrimination, harassment and/or related retaliation complaint may not necessarily stop, delay or affect pending personnel actions. This includes, but is not limited to, performance evaluations or disciplinary actions related to a reporter who is not performing at acceptable levels or standards or who has violated district policies or regulations.

**TRAINING & PUBLICATION OF POLICY**

The District will train its employees on this Policy and Regulation. The training will include the requirements of nondiscrimination and the appropriate responses to discrimination, harassment, and retaliation. The District will notify its employees to report complaints of discrimination, harassment or retaliation in accordance with this Policy. This training will be provided to employees on an annual basis, and at such other times as the Superintendent, in consultation with the District's Compliance Officer, determines is necessary or appropriate. Additionally, the District will provide additional training to the District Compliance Officer on identifying, investigating, and reporting on acts that may constitute discrimination, harassment or retaliation. District students will be notified regarding this Policy. This Policy will be posted on the District's website and available in Central Office.

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