

## **Nondiscrimination/Equal Opportunity (Complaint and Compliance Process)**

The District shall respond to complaints of discrimination and/or harassment reported; take action in response when discrimination and/or harassment is discovered; impose appropriate sanctions on offenders in a case-by-case manner; and protect the privacy of all those involved in discrimination and/or harassment complaints to the extent practical and appropriate under the circumstances. These actions shall apply to the extent permitted by law or where personal safety is not an issue. Under certain circumstances, the complaint may be referred to law enforcement for investigation.

The District has adopted the following procedures to promptly and fairly address concerns and complaints about discrimination and/or harassment.

### **Definitions**

The term "compliance officer" means an employee designated to act as such by the Board of Education. That individual shall be identified by name, address and telephone number (Exhibit AC-E-1). If the designated individual is not qualified or is unable to act as such the Superintendent shall designate an administrator who shall serve until a successor is appointed by the Board.

The term "aggrieved individual" shall mean a student, the parents/guardians of a student under the age of 18 acting on behalf of a student, a student over the age of 18 or an employee of the District who is directly affected by an alleged violation of District policies prohibiting discrimination or harassment.

### **Complaint Procedure**

An aggrieved individual who believes he or she has been subject to harassment or discrimination in violation of law and District policy is encouraged to report the incident as provided in Board policy. All reports received by teachers, counselors, principals or other District employees shall be forwarded to the compliance officer.

Within 2 days of receiving the report, the compliance officer shall direct a representative of the District to meet with the aggrieved individual in order to obtain a clear understanding of the basis of the complaint and to discuss what action the aggrieved individual is seeking.

At this meeting, the District representative shall explain that the District is required by law to take steps to correct the harassment and to prevent recurring harassment or retaliation against anyone who makes a harassment report or participates in an investigation. The District representative 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 the harassment and preventing future harassment.

A District representative shall make such additional investigation as is necessary to determine the complete facts involved. Such an investigation may include interviewing the parties and any witnesses. If the alleged harasser is a student, the District will attempt to include his or her parents/guardians during the student interview. Anyone interviewed shall be informed only of those facts which, in the District representative's judgment, are necessary to achieve a full and accurate disclosure of material facts or to obtain an informal resolution.

The District representative may consider the following types of information in determining whether unlawful 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 alleged harasser has been found to have harassed others,
- d. evidence of the aggrieved individual's reaction or change in behavior following the alleged harassment,
- e. evidence about whether the individual claiming harassment took action to protest the conduct,
- f. evidence and witness statements or testimony presented by the parties involved,
- g. other contemporaneous evidence,
- h. any other evidence deemed relevant by the compliance officer.

In deciding whether conduct is sufficiently severe, persistent or pervasive to be a violation of law or policy, all relevant circumstances shall be considered by the District Representative, including:

- a. the degree to which the conduct affected one or more students' 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 alleged harasser and the aggrieved individual,
- d. the number of individuals involved as alleged harassers and as subjects of the harassment,
- e. the age of the alleged harasser and the aggrieved individual,
- f. the size of the school, location of the incident and context in which it occurred,
- g. other incidents at the school.

The District representative shall prepare a written report within 15 days, unless additional time to complete the investigation is necessary. The written report shall include a summary of the investigation, a determination of whether the complaint has been substantiated as factual, and recommendations, as appropriate. Findings of the investigation shall be provided to the compliance officer and the Superintendent. The

report may be used by the Superintendent or other District administration officials as a basis for disciplinary or other appropriate action.

### **504 Review Process**

An aggrieved individual (or his or her parent/guardian) may request a review or hearing under Section 504 by filing a written request for review with the compliance officer. If intent to seek a due process hearing under Section 504 is not clear from the face of a request, the compliance officer may contact the aggrieved individual to clarify the request and ascertain whether he or she wishes to initiate a Section 504 due process hearing.

After receipt of the written request, the compliance officer shall transfer the record within 5 school days to the Superintendent or designee for formal resolution and so notify the parties by certified mail.

After reviewing the record made by the compliance officer, the Superintendent or designee may gather additional evidence necessary to decide the case and/or determine that a hearing is necessary. At such time the matter should be referred to a hearing officer for further fact-finding. The hearing officer will be designated by the Superintendent.

The hearing shall be informal. The hearing officer shall provide the affected person a written statement of charges, evidence and reasons supporting the proposed adverse action. A student shall be entitled to be represented by his/her parent or by an attorney. An employee shall be entitled to be represented by an attorney or other representative of his/her choice. The complainant shall appear at the hearing and shall be entitled to present testimony and other evidence. Formal rules of evidence shall not apply. The compliance officer or designee may represent the District at the hearing and shall likewise be entitled to present testimony and other evidence. The hearing shall be closed to the public. The hearing officer shall make a recommendation to the Superintendent based upon evidence presented at the administrative hearing.

Within 10 school days of receiving the record from the hearing, the Superintendent or designee shall determine any sanctions or other action deemed appropriate, including recommendations to the Board for disciplinary or other action.

A complaint may also be made to the Office of Civil Rights at any time before or during the District's grievance procedures at: The Office of Civil Rights, U.S. Department of Education, Region VIII, Federal Office Building, 1244 North Speer Boulevard, Suite 310, Denver, Colorado, 80204.

### **District Action**

The District shall take appropriate action to end the harassment, to make the victim whole by restoring lost educational or employment opportunities, to prevent harassment

from recurring and to prevent retaliation against anyone that reports harassment or participates in a harassment investigation.

All parties involved in an investigation of harassment or discrimination, including the parents/guardians of all students involved, shall be notified by the Superintendent when the investigation has been completed and that appropriate corrective measures have been taken. If disciplinary action is recommended for a student or employee, that action shall proceed in accordance with applicable District policy. Remedial and/or disciplinary actions shall include measures designed to stop the harassment, correct its negative impact on the affected individual, and ensure that the harassment does not recur.

Nothing contained herein shall 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 shall apply, 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 shall govern.

Adopted May 28, 2008

St. Vrain Valley School District RE-1J, Longmont, Colorado