

## 103. DISCRIMINATION COMPLAINT PROCEDURES

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*The Discrimination Complaint Procedures prescribed in this attachment apply to reports of retaliation or discrimination on the basis of race, color, age, religious creed, religion, sex, gender identity, sexual orientation, ancestry, national origin, marital status, pregnancy or related conditions, or handicap/disability that do not constitute Title IX sex-based discrimination or harassment as defined in the Policy 103.*

*All reports of discrimination will be reviewed by the Title IX Coordinator upon receipt to determine if the allegations meet the definition and parameters of sex-based discrimination and harassment under Title IX. If the result of this review determines that the allegations fall within the scope of Title IX sex -based discrimination and harassment, then the Grievance Procedures set forth for Title IX Sex-Based Discrimination and Harassment will be followed.*

*[Note: if the same individual is assigned to the roles of Title IX Coordinator and Compliance Officer through Policy 103, please revise the terminology in this document to reflect the position of Title IX Coordinator/Compliance Officer throughout.]*

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All reports of discrimination and retaliation brought pursuant to the center (school)'s discrimination policy **will** also be reviewed for conduct which may not be proven discriminatory under Policy 103 but merits review and possible action under the Code of Student Conduct and other Joint Operating Committee policies. (Pol. 103.1, **113.1**, 218, **233**, 247, 249, 252)

#### Reasonable Accommodations

Throughout the discrimination complaint procedures, the center (school) **will** make reasonable accommodations for identified physical and intellectual impairments that constitute disabilities for all parties, and address barriers being experienced by disadvantaged students such as English learners, homeless students **and other students experiencing educational instability**, consistent with the requirements of federal and state laws and regulations and Joint Operating Committee policy. (Pol. 103.1, 113, 138, **234**, 251, 906)

#### Required Reporting Under Other Policies

In addition to implementing the **complaint** procedures, the building administrator or Compliance Officer **will** ensure that reported conduct which meets the definition of other laws, regulations or Joint Operating Committee policies, is also appropriately addressed in accordance with the applicable laws, regulations or Joint Operating Committee policies, including but not limited to, incidents **involving school safety**, reports of educator misconduct, **bullying**, threats or reports of suspected child abuse. (Pol. 218, **218.1**, **218.2**, **249**, 317.1, 806, 824)

## Timeframes

Reasonably prompt timeframes **will** be established for completing each step of the discrimination complaint procedures, including timeframes for filing and resolving appeals.

The established timeframes included in these procedures may be adjusted to allow for a temporary delay or a limited extension of time for good cause. Written notice of the delay or extension and the reason for such action **will** be provided to the complainant and the respondent, and documented with the records of the complaint. Good cause may include, but is not limited to, considerations such as:

1. The absence of a party or a witness.
2. **Request from law enforcement or child welfare agency.**
3. Need for language assistance or accommodation of disabilities.

## **PROCEDURES FOR COMPLAINTS OF DISCRIMINATION**

### **Step 1 – Reporting**

A student or individual who believes they have been subject to discrimination by any student, employee or third party is encouraged to immediately report the incident to the building administrator using the Discrimination/**Harassment**/Bullying/Hazing/Dating Violence/Retaliation Report Form or by making a general report **orally** or in writing to the building administrator.

Parents/Guardians of students have the right to act on behalf of the complainant, the respondent or other individual at any time.

Any person with knowledge of discrimination in violation of Joint Operating Committee policy or this procedure is encouraged to immediately report the matter to the building administrator.

A center (school) employee who suspects or is notified that a student has been subject to discrimination **will** immediately report the incident to the **Title IX Coordinator or Compliance Officer**. Additionally, employees who have reasonable cause to suspect that a child is the victim of child abuse **will** immediately report the suspected abuse, in accordance with applicable law, regulations and Joint Operating Committee policy. (Pol. 806)

The building administrator **will** immediately notify the Title IX Coordinator and Compliance Officer of reported discrimination.

If the **Title IX Coordinator or Compliance Officer** is the subject of a complaint, the student, third party or employee **will** report the incident directly to the **Administrative Director or designee**.

The complainant or reporting individual **will** be encouraged to use the Discrimination/**Harassment**/Bullying/Hazing/Dating Violence/Retaliation Report Form, however, complaints **will** be accepted in person, by phone, by mail or email, or by any other means that results in the appropriate individual receiving the **oral** or written report. **Oral** reports **will** be documented using the Discrimination/**Harassment**/Bullying/Hazing/Dating Violence/Retaliation Report Form, and these procedures **will** be implemented.

The Title IX Coordinator **will** review reports and complaints, and may gather additional information from the individual submitting the report and other parties identified in the report using the Discrimination/**Harassment**/Bullying/Hazing/Dating Violence/Retaliation Report Form. The Title IX Coordinator **will** promptly contact the complainant regarding the report to gather additional information as necessary, and to discuss the availability of supportive measures. The Title IX Coordinator **will** consider the complainant's wishes with respect to supportive measures.

The Title IX Coordinator **will** conduct an assessment to determine whether the reported circumstances are most appropriately addressed through the Discrimination Complaint Procedures prescribed in this **document**, or if the reported circumstances meet the definition and parameters of Title IX **sex-based discrimination or** harassment and are most appropriately addressed through the Grievance **Procedures**, or other applicable Joint Operating Committee policies.

If the Title IX Coordinator determines that the report should be addressed through the discrimination complaint procedures, the Compliance Officer **will** be notified and the complaint procedures in this **document will be** implemented.

When any party is an identified student with a disability, or thought to be a student with a disability, the Title IX Coordinator **will** notify the Director of Special Education and coordinate to determine whether additional steps must be taken for the party, while the discrimination complaint procedures are implemented. Such measures may include, but are not limited to, conducting a manifestation determination, functional behavioral assessment (FBA) or other assessment or evaluation, in accordance with applicable law, regulations **and** Joint Operating Committee policy. FBAs must be conducted when a student's behavior interferes with the student's learning or the learning of others and information is necessary to provide appropriate educational programming, and when a student's behavior violates the Code of Student Conduct and is determined to be a manifestation of a student's disability. (Pol. 113, 113.1, 113.2)

## **Step 2 – Initial Communications/Supports**

The complainant **will** be informed about the Joint Operating Committee's policy on discrimination, including the right to an investigation of both **oral** and written reports of discrimination.

The building administrator or designee, in consultation with the Compliance Officer, Title IX Coordinator and other appropriate individuals, **will** promptly implement appropriate measures to protect the complainant and others as necessary from violation of the policy throughout the

course of the investigation.

The building administrator or designee may provide to the complainant factual information on the complaint and the investigative process, the impact of choosing to seek confidentiality and the **opportunity to report the incident(s) to law enforcement**. The person accepting the complaint **will** handle the report objectively, neutrally and professionally, setting aside personal biases that might favor or disfavor the complainant or respondent.

The building administrator or designee **will** seek to obtain consent from parents/guardians to initiate an investigation where the **complainant** is under age eighteen (18), and inform parents/guardians of the complainant that the complainant may be accompanied by a parent/guardian during all steps of the complaint procedure. When a parent/guardian requests confidentiality and will not consent to the **complainant's** participation in an investigation, the building administrator or designee **will** explain that the center (school) **will** take all reasonable steps to investigate and respond to the complaint consistent with that request for confidentiality as long as doing so does not preclude the center (school) from responding effectively to the discrimination and preventing discrimination that affects other students.

The building administrator or Compliance Officer **will** provide relevant information on resources available in addition to the discrimination complaint procedure, such as making reports to **law enforcement**, available assistance from domestic violence or rape crisis programs and community health resources, including counseling resources.

#### *Informal Remedies -*

At any time after a complaint has been reported, if the Compliance Officer believes the circumstances are appropriate, the Compliance Officer may offer the parties involved in the complaint the opportunity to participate in informal remedies to address the reported conduct. Informal remedies can take many forms, depending on the particular case. Examples include, but are not limited to, mediation, facilitated discussions between the parties, restorative practices, acknowledgment of responsibility by a respondent, apologies, a requirement to engage in specific services or other measures to support the parties.

If the matter is resolved to the satisfaction of the parties, the center (school) employee facilitating the informal remedies **will** document the nature of the complaint and the proposed resolution of the matter, have both parties sign the documentation to indicate agreement with the resolution and receive a copy, and forward it to the Compliance Officer.

The Compliance Officer **will** contact the complainant to determine if the resolution was effective and to monitor the agreed upon remedies, and **will** document all appropriate actions.

\*If the informal remedies result in the final resolution of the complaint, the following steps are not applicable.

### Step 3 – Investigation

The Compliance Officer **will** assess whether the investigation should be conducted by the building administrator, another center (school) employee, the Compliance Officer or an attorney and **will** promptly assign the investigation to that individual. When a parent/guardian has requested confidentiality and will not consent to the **complainant's** participation in an investigation, the Compliance Officer **will** provide the parent/guardian with a letter containing information related to the center (school)'s legal obligations to conduct an investigation and address violations of Joint Operating Committee policy, and any other information appropriate to the specific complaint.

The Compliance Officer **will** ensure that the individual assigned to investigate the complaint has an appropriate understanding of the relevant laws pertaining to discrimination and retaliation issues and Joint Operating Committee policy, and how to conduct investigations and draft an investigative report.

The investigator **will** work with the Compliance Officer to assess the anticipated scope of the investigation, who needs to be interviewed and what records or evidence may be relevant to the investigation.

The investigator **will** conduct an adequate, reliable and impartial investigation. The complainant and the respondent may suggest additional witnesses and provide other evidence during the course of the investigation. When the initial complaint involves allegations relating to conduct which took place away from school property, school-sponsored activities or school conveyances, the investigation may include inquiries related to these allegations to determine whether they resulted in continuing effects such as harassment in school settings.

The investigation may consist of individual interviews with the complainant, the respondent, and others with knowledge relative to the allegations. The investigator may also evaluate any other information and materials relevant to the investigation. The person making the report, parties, parents/guardians and witnesses **will** be informed of the prohibition against retaliation for anyone's participation in the process and that conduct believed to be retaliatory should be reported. All individuals providing statements or other information or participating in the investigation **will** be instructed to keep the matter confidential and to report any concerns about confidentiality to the investigator.

If the investigation reveals that the conduct being investigated may involve a violation of criminal law, the investigator **will** promptly notify the Compliance Officer, who **will** promptly inform law enforcement authorities about the allegations.

The obligation to conduct this investigation **will** not be negated by the fact that a criminal or child protective services investigation of the allegations is pending or has been concluded. The investigator should coordinate with any other ongoing investigations of the allegations, including agreeing to requests for a delay in fulfilling the center (school)'s investigative responsibilities during the fact-finding portion of a criminal or child protective services investigation. Such delays **will** not extend beyond the time necessary to prevent interference with or disruption of the

criminal or child protective services investigation, and the reason for such delay **will** be documented by the investigator.

#### **Step 4 – Investigative Report**

The investigator **will** prepare and submit a written report to the Compliance Officer within

{ X } thirty (30) school days

of the initial report of alleged discrimination, unless the nature of the allegations, anticipated extent of the investigation or the availability of witnesses requires the investigator and the Compliance Officer to establish a different due date. The parties **will** be notified of the anticipated date the investigative report will be completed and of any changes to the anticipated due date during the course of the investigation.

The investigative report **will** include a summary of the investigation, a determination of whether the complaint has been substantiated as factual, the information and evaluation that formed the basis for this determination, whether the conduct violated Joint Operating Committee Policy 103 and of any other violations of law or Joint Operating Committee policy which may warrant further center (school) action, and a recommended disposition of the complaint. An investigation into discrimination or harassment **will** consider the record as a whole and the totality of circumstances in determining whether a violation of Joint Operating Committee policy has occurred, recognizing that persistent and pervasive conduct, when taken together, may be a violation even when the separate incidents are not severe.

The complainant and the respondent **will** be informed of the outcome of the investigation, for example, whether the investigator believes the allegations to be founded or unfounded, within a reasonable time of the submission of the written investigative report, to the extent authorized by the Family Educational Rights and Privacy Act (FERPA) and other applicable laws. The respondent **will** not be notified of the individual remedies offered or provided to the complainant.

#### **Step 5 – Center (School) Action**

If the investigation results in a finding that some or all of the allegations of the discrimination complaint are founded and constitute a violation of Joint Operating Committee policy, the center (school) **will** take prompt, corrective action designed to ensure that such conduct ceases and that no retaliation occurs. The center (school) **will** promptly take appropriate steps to prevent the recurrence of the prohibited conduct and to address the discriminatory effect the prohibited conduct had on the complainant and the center (school) education program or activity. Center (School) staff shall document the corrective action taken and, where not prohibited by law, inform the complainant. The Compliance Officer **will** follow up by assessing the effectiveness of the corrective action at reasonable intervals.

If an investigation results in a finding that a different policy was violated separately from or in addition to violations of Policy 103 or these procedures, or that there are circumstances warranting further action, such matters **will** be addressed at the conclusion of this investigation

or through disciplinary or other appropriate referrals where further evaluation or investigation is necessary. (Pol. 113.1, 218, 233, 247, 249, **317.1, 806, 824**)

Disciplinary actions **will** be consistent with the Code of Student Conduct, Joint Operating Committee policies and administrative regulations, center (school) procedures, applicable collective bargaining agreements and state and federal laws and regulations. (Pol. 103, 104, 113.1, 218, 233, 317, 317.1)

### **Appeal Procedure**

If the complainant or the respondent is not satisfied with a finding made pursuant to these procedures or with recommended corrective action, they may submit a written appeal to the Compliance Officer within fifteen (15) school days of receiving notification of the outcome of the investigation. If the Compliance Officer investigated the complaint, such appeal **will** be made to the Administrative Director.

The individual receiving the appeal **will** review the investigation and the investigative report and may also conduct or designate another person to conduct a reasonable supplemental investigation to assess the sufficiency and propriety of the prior investigation.

The person handling the appeal **will** prepare a written response to the appeal withi

{ X } twenty (20) school days.

Copies of the response **will** be provided to the complainant, the respondent and the investigator who conducted the initial investigation.