# 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, creed, religion, sex, sexual orientation, ancestry, national origin, marital status, pregnancy or handicap/disability that do not constitute Title IX sexual harassment as defined in Policy 104.***

***All reports of discrimination shall be reviewed by the Title IX Coordinator upon receipt to determine if the allegations meet the definition and parameters of sexual harassment under Title IX. If the result of this review determines that the allegations fall within the scope of Title IX sexual harassment, then the process set forth in Policy 104 Attachment 3 for Title IX Sexual Harassment shall be followed.***

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All reports of discrimination and retaliation brought pursuant to the Joint Operating Committee's discrimination policy shall also be reviewed for conduct which may not be proven discriminatory under Policy 104 but merits review and possible action under other Joint Operating Committee policies or the Code of Student Conduct for students. (Pol. 103.1, 218,317)

Definitions

**Complainant** shall mean an individual who is alleged to be the victim.

**Respondent** shall mean an individual who has been reported to be the perpetrator of the alleged conduct.

**Discrimination** shall mean to treat individuals differently, or to harass or victimize based on a protected classification including race, color, age, creed, religion, sex, sexual orientation, genetic information, ancestry, national origin, marital status, pregnancy, or handicap/disability.

**Harassment** is a form of discrimination based on the protected classifications listed in the policy consisting of unwelcome conduct such as graphic, written, electronic, verbal or nonverbal acts including offensive jokes, slurs, epithets and name-calling, ridicule or mockery, insults or

put-downs, offensive objects or pictures, physical assaults or threats, intimidation, or other conduct that may be harmful or humiliating or interfere with a person's school or school-related work performance, including when:

1. Submission to such conduct is made explicitly or implicitly a term or condition of an employee's status; or

2. Submission to or rejection of such conduct is used as the basis for employment-related decisions affecting an employee; or

3. Such conduct is sufficiently severe, persistent or pervasive that a reasonable person in the complainant's position would find that it unreasonably interferes with the complainant's performance at work or otherwise creates an intimidating, hostile, or offensive working environment such that it alters the complainant's working conditions.

**Retaliation** shall mean actions including, but not limited to, intimidation, threats, coercion, or discrimination against a victim or other person because they report discrimination or harassment, participate in an investigation or other process addressing discrimination or harassment, or act in opposition to discriminatory practices.

Reasonable Accommodations

Throughout the discrimination complaint procedures, the center shall make reasonable accommodations for identified physical and intellectual impairments that constitute disabilities for all parties, consistent with the requirements of federal and state laws and regulations and Joint Operating Committee policy. (Pol. 103.1, 104, 113, 832, 906)

Required Reporting Under Other Policies

In addition to implementing the disciplinary complaint procedures, the administrative director or participating district building administrator hall 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 under the Safe Schools Act, reports of educator misconduct, threats, or reports of suspected child abuse. (Pol. 218, 317.1, 805.1, 806, 824)

Timeframes

Reasonably prompt timeframes shall 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 shall 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. Concurrent law enforcement activity.

3. Need for language assistance or accommodation of disabilities.

## PROCEDURES FOR COMPLAINTS OF DISCRIMINATION

### Step 1 – Reporting

An employee or individual who believes they have been subject to discrimination by any center student, employee or third party is encouraged to immediately report the incident to the building administrator using the Discrimination/Sexual Harassment/Retaliation Report Form or by making a general report verbally or in writing to the building administrator. A person who is not an intended victim or target of discrimination but is adversely affected by the offensive conduct may file a report of discrimination.

If a student is identified as a party in the report, parents/guardians have the right to act on behalf of the student 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 participating school district building administrator.

The participating school district building administrator shall immediately notify the Title IX Coordinator and/or Compliance Officer of the reported discrimination.

If the participating school district building administrator is the subject of a complaint, the person making the report shall report the incident directly to the Title IX Coordinator.

The complainant or reporting individual shall be encouraged to use the Discrimination/Sexual Harassment/Retaliation Report Form, however, complaints shall be accepted in person, by telephone, by mail or email, or by any other means that results in the appropriate individual receiving the individual's verbal or written report. Verbal reports shall be documented using the Discrimination/Sexual Harassment/Retaliation Report Form, and these procedures shall be implemented.

The Title IX Coordinator shall 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/Sexual Harassment/Retaliation Report Form. The Title IX Coordinator shall 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 shall consider the complainant's wishes with respect to supportive measures.

The Title IX Coordinator shall conduct an assessment to determine whether the reported circumstances are most appropriately addressed through the Discrimination Complaint Procedures prescribed in this Attachment 2, or if the reported circumstances meet the definition and parameters of Title IX sexual harassment and are most appropriately addressed through the Title IX Sexual Harassment Procedures and Grievance Process for Formal Complaints in Attachment 3, 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 Title IX Coordinator shall be notified and the complaint procedures in this Attachment 2 implemented.

When a party is an identified student with a disability, or thought to be a student with a disability, the Title IX Coordinator shall notify the participating school district's 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 or Joint Operating Committee policy, and in coordination with a student's school district of residence where applicable. 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 shall be informed about the Joint Operating Committee's policy on discrimination, including the right to an investigation of both verbal and written reports of discrimination.

The participating school district building administrator or designee, in consultation with the Title IX Coordinator and other appropriate individuals, shall promptly implement appropriate measures to protect the complainant and others as necessary from violation of the policy throughout the course of the investigation.

The participating school district building administrator or Title IX Coordinator may provide to the complainant factual information on the complaint and the investigative process, the impact of choosing to seek confidentiality and the right to file criminal charges. The person accepting the complaint shall handle the report objectively, neutrally and professionally, setting aside personal biases that might favor or disfavor the complainant or respondent.

The Title IX Coordinator shall provide relevant information on resources available in addition to the discrimination complaint procedure, such as making reports to the police, 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 Title IX Coordinator believes the circumstances are appropriate, the Title IX Coordinator 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, acknowledgment of

responsibility by a respondent, apologies, a requirement to engage in specific services such as an Employee Assistance Program, or other measures to support the parties.

If the matter is resolved to the satisfaction of the parties, the center employee facilitating the informal remedies shall 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 Title IX Coordinator.

The Title IX Coordinator shall contact the complainant to determine if the resolution was effective and to monitor the agreed upon remedies and shall 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 Title IX Coordinator shall assess whether the investigation should be conducted by the building administrator, another employee, the Title IX Coordinator or an attorney and shall promptly assign the investigation to that individual.

The Title IX Coordinator shall 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 shall work with the Title IX Coordinator 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 shall 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, if applicable, and witnesses shall 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 shall 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 shall promptly notify the Title IX Coordinator, who shall promptly inform law enforcement authorities about the allegations.

The obligation to conduct this investigation shall 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's investigative responsibilities during the fact-finding portion of a criminal or child protective services investigation. Such delays shall 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 shall be documented by the investigator.

**Step 4 – Investigative Report**

The investigator shall prepare and submit a written report to the Title IX Coordinator within 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 Title IX Coordinator to establish a different due date. The parties shall 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 shall 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 104 and of any other violations of law or Joint Operating Committee policy which may warrant further action by the center (school), and a recommended disposition of the complaint. An investigation into discrimination or harassment shall 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 shall 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 shall not be notified of the individual remedies offered or provided to the complainant.

**Step 5 – Action by the Center**

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 shall take prompt, corrective action designed to ensure that such conduct ceases and that no retaliation occurs. The center shall 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 education program or activity. Center staff shall document the corrective action taken and, where not prohibited by law, inform the complainant. The Title IX Coordinator shall 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 104 or these procedures, or that there are circumstances warranting further action, such matters shall 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, 233,317)

Disciplinary actions shall be consistent with Joint Operating Committee policies and procedures, administrative regulations, the Code of Student Conduct for students, 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 Title IX Coordinator within fifteen (15) school days of receiving notification of the outcome of the investigation. If the investigator investigated the complaint, such appeal shall be made to the Title IX Coordinator.

The individual receiving the appeal shall 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 shall prepare a written response to the appeal within twenty (20) school days. Copies of the response shall be provided to the complainant, the respondent and the investigator who conducted the initial investigation.


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