

Colorado Springs School District 11

Internal Complaint Procedures for Unlawful Discrimination/Harassment

I. POLICY

The policy of Colorado Springs School District 11 (the District) is to provide learning and working environments that are free from discrimination and harassment. The following grievance procedures provide an avenue towards the fair and expeditious processing of complaints, and eliminating elements that pollute the learning and working environment with unlawful discrimination or harassment.

II. DEFINITIONS

- A. Grievance or Complaint:** a complaint alleging a violation of any policy, procedure, or practice which would be prohibited by Title IX, Section 504, and other federal and state civil laws, rules, and regulations.
- B. Federal and state civil laws, rules, and regulations:** Title IX of the Education Amendments of 1972, and the 1975 Implementing Regulations, Section 504 of the Rehabilitation Act of 1973, and the 1977 Implementing Regulations, the 1964 Civil Rights Act, the Age Discrimination Act of 1965 and 1975 as amended, the Equal Pay Act of 1963, and various federal and state rules and regulations, memoranda, directives, guidelines, or subsequent legislation that may be issued.
- C. Grievant(s) or Reporting Party:** a District student, parent/guardian, or employee who submits a grievance.
- D. Respondent:** the person or persons alleged to be responsible for the harassment or discrimination.
- E. Coordinator:** the District employee designated to coordinate the District's efforts to comply with nondiscrimination and facilitate the complaint process.
- F. Day:** the calculation of days in grievance processing shall exclude Saturdays, Sundays, and school holidays, including spring, summer and winter breaks.

III. GRIEVANCE PROVISIONS

- The Coordinator shall receive complaints, actively and independently investigate the merit of complaints, and assist the parties in resolution of complaints. Any party at any level of this procedure may engage the Coordinator as a resource.
- A reporting party who needs technical assistance with completing paperwork or presenting information may contact the District's Equal Opportunity Programs/Ombudsperson (719-520-2271) to request such assistance. Reports and/or complaints may be made during the evenings or outside the normal school day to the District Security Office (719-520-2287).
- This procedure does not deny the grievant the right to file formal complaints with other state and federal agencies, or to seek private counsel for complaints. A District employee may be assisted or represented by a representative of an employee organization formally recognized by the District 11 Board of Education, such as the Colorado Springs Education Association or the Educational Support Professionals council, at any point in the process.
- In most instances, for student-centered grievances, parents/guardians should be part of the hearing and resolution process. In investigations of sexual harassment, it is recommended that a friend, parent/guardian of a student grievant, or adviser for support accompany the grievant during any part of the process.
- Intimidation, harassment, or retaliation against any person filing a grievance, or any person participating in the investigation or resolution of a grievance, is a violation of law, and constitutes the basis for filing a separate grievance.
- The District shall maintain all records pursuant to the grievance separately from student records for not less than five (5) years.
- It is the goal of the District to process all grievances in a fair, expeditious, and confidential manner. The District recognizes that both the grievant and the person against whom a complaint or report has been filed have strong interests in maintaining the confidentiality of the allegations and related information. Confidentiality cannot, however, be guaranteed. The privacy of the grievant, the individual(s) against whom the complaint or report has been filed, and the witnesses will be respected as much as possible, but information may have to be disclosed consistent with the need to investigate, take remedial action to prevent future discrimination in violation of Board policy, and comply with any discovery or disclosure obligations.
- The time lines for District action contained herein may be extended as deemed necessary by the District, such as when the investigation is complex, involving many witnesses, or the witnesses involved are not available due to travel, illness or personal circumstances. Any such extension shall be for a finite number of days that is made known to all parties. All time periods are calendar days.

IV. GRIEVANCE PROCESS

- A. Informal** (This is an optional step. The grievant may skip this and go directly to a formal complaint).

To submit an informal report of discrimination or harassment, the reporting party is encouraged to first submit the report informally to his or her immediate supervisor, or to the supervisor or principal of the person against whom a complaint or report has been filed. The report may be submitted orally or in writing.

If the immediate supervisor or principal is believed to have participated in the alleged harassment or discrimination, the reporting party may address the matter informally, with the next level supervisor or the District Ombudsperson. If the respondent is someone in another area of the District, or if the

alleged violation is a Board policy or workplace or District-wide practice, the reporting party may seek to resolve the matter informally by contacting the District Ombudsperson.

Upon receipt of a report or complaint of alleged harassment or discrimination, the supervisor, District Ombudsperson, or school-based Title IX Coordinator may conduct or authorize an informal investigation to address the report or complaint. Alternative Dispute Resolution (ADR) techniques such as mediation may be used when and where deemed appropriate by the District. If the report or complaint is not resolved to the satisfaction of the reporting party or if no result is produced within 14 days of making the complaint, the reporting party may submit a formal complaint under the process set out below.

B. Formal

1. District Ombudsperson

To submit a formal report of discrimination or harassment, the reporting party must submit a completed report form to the District Ombudsperson within 10 days after the conclusion of the informal process (if an informal process is first chosen), or within 10 days of the incident giving rise to the grievance (if an informal process is not chosen). A form may be obtained from the District Ombudsperson (located on the District 11 Equal Opportunity Programs & Ombudservices web page). In cases of sexual harassment, sexual assault, or sex discrimination, the formal report may be filed by the reporting party, a third-party, or the Ombudsperson.

After the report is properly filed, the Ombudsperson will notify the person or persons alleged to be responsible for the harassment or discrimination that a report has been filed. The Respondent may receive a copy of the report upon request and/or be told the name of the reporting party, unless the District Ombudsperson determines that such disclosure would not be in the best interests of addressing the complaint or would otherwise be detrimental to either party. In any event, the Respondent is expected to have no contact of any kind with the reporting party, to cause anyone else to initiate such contact on his behalf, or, at any time, retaliate in any way against the reporting party for submitting a report under this regulation.

Further, the Respondent is expected to cooperate fully in the District Ombudsperson's investigation and is not to impede the investigation in any way, including but not limited to, discussing the report or facts related to it with any potential witness. The District Ombudsperson shall initiate an investigation promptly after receiving the report. The investigation may consist of personal interviews with the reporting party, the Respondent, and any other individuals who may have knowledge of the alleged incident(s) or circumstances giving rise to the report or complaint.

In evaluating the alleged conduct, the investigator should consider the surrounding circumstances; any relevant documents; the nature of the behavior; past incidents or continuing patterns of behavior; the relationships between the parties involved; the context in which the alleged incidents occurred; and the age of the persons involved. The Grievant and Respondent shall be informed of the results of the investigation. The District Ombudsperson should report his or her conclusions within 20 days of the submission of the formal report. In the event the reporting party is not satisfied with the District Ombudsperson's decision, the reporting party may ask for a review of the District Ombudsperson's decision.

2. Superintendent or Designee Review

The reporting party may initiate a further review of the District Ombudsperson's decision by notifying the Superintendent in writing. Such notice must be received by the Superintendent within 15 days of the date the District Ombudsperson's decision is announced. The notice must contain all reasons the reporting party is requesting the review, and must contain a copy of the original report and the District Ombudsperson's decision.

A copy of reporting party's request for review will be provided to the Respondent by the Superintendent. The Superintendent will review the request for review, the original report, and District Ombudsperson's decision. The Superintendent is not required to conduct further investigation and may, but is not required to, meet with the Grievant and Respondent. The Superintendent may uphold the District Ombudsperson's decision, reverse the District Ombudsperson's decision, or may remand the matter back to the District Ombudsperson for further consideration and/or investigation. The Superintendent shall render her or his decision within 20 days of receiving the reporting party's written request for review, unless the Superintendent determines that a longer period of time is necessary given the circumstances.

The Superintendent's decision shall be final, except that, if the Superintendent remands the matter for further consideration and/or investigation, the District Ombudsperson shall, within 20 days of the date of the Superintendent's remand, render a subsequent decision based on further consideration and/or investigation. If the reporting party is not satisfied with the Ombudsperson's second decision, he or she may request a second review by the Superintendent. In such case, the steps and time lines in this section shall apply. The Superintendent's decision shall be final and a copy provided to the Grievant, Respondent, District Ombudsperson and the Office of Human Resources (if the Respondent is a District employee). The Office of Human Resources may take disciplinary or other action based on the Superintendent's final decision.

At any time during this process, a Grievant may file a complaint with the:

**Office for Civil Rights
U.S. Department of Education
Cesar E. Chavez Memorial Building
1244 Speer Boulevard, Suite 310
Denver, CO 80204-3582**

Telephone: 303-844-5695; FAX: 303-844-4303; TDD: 800-877-8339; Email: OCR.Denver@ed.gov