

Colorado Springs School District 11
Internal Complaint Procedures for Unlawful Discrimination or 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

Grievance or Complaint: a complaint alleging a violation of any policy, procedure, or practice which would be prohibited by 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 other federal and state civil laws, rules, and regulations.

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.

Complainant or Reporting Party: a District student, parent/guardian, or employee who submits a grievance or complaint.

Respondent: the person or persons alleged to be responsible for the harassment or discrimination.

Coordinator: the District employee designated to coordinate the District's efforts to comply with internal nondiscrimination policy, as well as federal and state law, and facilitate the complaint process. In most instances, this is the District's Equal Opportunity Programs & Ombudservice Office (EOPO).

Standard of Proof: Preponderance of the evidence, credible and convincing evidence must be presented which shows that the fact to be proven is more probable than not.

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 EOPO (719-520-2288) to request such assistance. 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 Complainant 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.
- Until a determination regarding responsibility is made by the Decision Maker at the conclusion of the grievance

Colorado Springs School District 11
Internal Complaint Procedures for Unlawful Discrimination or Harassment

process, the Respondent will be presumed not responsible for the alleged conduct.

- 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 Complainant during any part of the process.
- Intimidation, harassment, or retaliation against any person filing a complaint or grievance, or any person participating in the investigation or resolution of a complaint or grievance, is a violation of law, and constitutes the basis for filing a separate complaint or grievance.
- The District shall maintain all records pursuant to the complaint or grievance separately from student records for not less than five (5) years.
- It is the goal of the District to process all complaints and grievances in a fair, expeditious, and confidential manner. The District recognizes that both the Complainant and the Respondent against whom a complaint or grievance 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 Complainant, the Respondent(s) against whom the complaint or grievance 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 District is required to dismiss allegations of conduct that do not meet the Title IX definition of sexual harassment, which includes the following three (3) types of misconduct on the basis of sex: (1) any instance of *quid pro quo* harassment by a District employee; (2) any unwelcome conduct that a reasonable person will find so severe, pervasive, and objectively offensive that it denies a person equal educational access; (3) any instance of sexual assault, dating violence, or stalking as defined in the Violence Against Women Act, or did not occur in the District's education program or activity. Such dismissal is only for Title IX purposes and does not preclude the District from addressing the conduct in any manner the District deems appropriate.
- The District may, in its discretion, dismiss a formal complaint or allegations therein if (1) the Complainant informs the Title IX Coordinator in writing that the Complainant desires to withdraw the formal complaint or allegations therein; (2) the respondent is no longer enrolled or employed by the District; or (3) if the specific circumstances prevent the District from gathering sufficient evidence to reach a determination.
- The District must provide written notice of a dismissal to the Complainant and the Respondent, whether it is mandatory or discretionary, and the reasons for the dismissal.
- The District may, in its discretion, consolidate formal complaints where the allegations arise out of the same facts.
- The timelines 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 exclude Saturdays, Sundays, and school holidays, including spring, summer and winter breaks.
- "Rape Shield" protections apply protecting Complainants from inappropriately being asked about their prior sexual history.

Colorado Springs School District 11
Internal Complaint Procedures for Unlawful Discrimination or Harassment

IV. GRIEVANCE PROCESS

A. Informal Complaint (This is an optional step. The Complainant may skip this process 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 EOPO. 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 EOPO.

Upon receipt of a report or complaint of alleged harassment or discrimination, the supervisor or the EOPO (the District 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 deemed appropriate by the District and only after obtaining the parties' voluntary written consent. If the report or complaint is not resolved to the satisfaction of the reporting party or if no result is produced within fourteen (14) days of making the complaint, the reporting party may submit a formal complaint under the process set out below.

The informal complaint process cannot be utilized where a District employee allegedly sexually harassed student.

B. Formal Complaint

1. District 11 Equal Opportunity Programs & Ombudservice (EOPO) Title IX Coordinator

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

After the complaint is properly filed, the Title IX Coordinator will notify the person or persons alleged to be responsible for the harassment or discrimination (the Respondent(s)) 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 Complainant, unless the Title IX Coordinator 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 Complainant, to cause anyone else to initiate such contact on their behalf, or, at any time, retaliate in any way against the reporting party for submitting a report under these procedures.

Further, the Respondent is expected to cooperate fully in the Title IX Coordinator's investigation and is not to impede the investigation in any way. The Title IX Coordinator shall initiate an investigation promptly after receiving the report. The

Colorado Springs School District 11

Internal Complaint Procedures for Unlawful Discrimination or Harassment

investigation may consist of personal interviews with the Complainant, 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 and investigating the alleged conduct, the Title IX Coordinator 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 Complainant and Respondent shall be informed of the results of the Title IX Coordinator's investigation via investigative report. This investigative report will also be provided to the designated Decision Maker. The Title IX Coordinator should report their conclusions within twenty (20) days of the submission of the formal complaint.

An extension of this deadline may be granted to complete the investigation depending on the severity and extent of the harassment or discrimination alleged. Typically, when an extension is granted, the investigation should be completed within sixty (60) days.

2. Review and Response Process

Following submission of the formal Title IX investigative report to the Complainant, the Respondent, and the Decision Maker, but before the Decision Maker reaches their determination, the Decision Maker shall allow ten (10) days for the Complainant and the Respondent (and their selected advisors, if applicable) to inspect and respond to the investigative report and the evidence gathered and deemed relevant. Both the Complainant and the Respondent will have the opportunity to submit written, relevant questions that they would like asked of any party or witness. Both the Complainant and the Respondent will be provided with the answers to the written questions. Both the Complainant and the Respondent will be allowed additional limited follow-up questions before the Review and Response Process is concluded. The Title IX Coordinator will serve as a procedural facilitator for the Review and Response Process.

3. Determination Issued by Decision Maker

The Decision Maker must issue a written determination regarding responsibility with: (1) findings of fact; (2) conclusions about whether the alleged conduct occurred; (3) rationale for the result as to each allegation; (4) any disciplinary sanctions for the respondent; and (5) whether remedies will be provided to the Complainant. The Decision Maker will send their determination to both the Complainant and the Respondent simultaneously and will provide information on the appeal process.

4. Appeal Process

Either the Complainant or the Respondent ("party") may initiate a further review of the Decision Maker's final determination by notifying the Superintendent in writing. Such notice must be received by the Superintendent within fifteen (15) days of the date the Decision Maker's final determination is announced. The notice must contain all reasons the party is requesting the review and must contain a copy of the investigative report and the Decision Maker's final determination.

A copy of the party's request for review will be provided to the other party by the Superintendent. The Superintendent will review the request for review, the investigative report, and the Decision Maker's final determination. The Superintendent is not required to conduct further investigation and may, but is not required to, meet with the Complainant and Respondent. The Superintendent may uphold the Decision Maker's final determination, reverse the Decision Maker's final determination, or may remand the matter back to the Decision Maker for further consideration and/or to the Title IX Coordinator for further investigation. The Superintendent shall render his or her decision within twenty (20) days of receiving the party's written request for review, unless the Superintendent determines that a longer period of time is necessary given the circumstances.

Colorado Springs School District 11
Internal Complaint Procedures for Unlawful Discrimination or Harassment

The Superintendent's decision shall be final, except that, if the Superintendent remands the matter for further consideration by the Decision Maker and/or further investigation by Title IX Coordinator, within 20 days of the date of the Superintendent's remand, the Decision Maker will render a subsequent decision based on further consideration and/or investigation. If the requesting party is not satisfied with the Decision Maker's second decision, he or she may request a second review by the Superintendent. In such a case, the steps and timelines in this section shall apply. The Superintendent's decision shall be final, and a copy of this final decision will be provided to the Complainant, the Respondent, the EOPO Office, 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 the formal or informal processes detailed above, a Complainant may file a claim with the:

Office for Civil Rights
U.S. Department of Education
Cesar E. Chavez Memorial Building
1244 Speer Boulevard, Suite 310
Denver, Colorado 80280-3582
Telephone: 303-844-5695
Fax: 303-844-4303
TDD: 800-877-8339
Email: OCR.Denver@ed.gov