



NEBO SCHOOL DISTRICT BOARD OF EDUCATION POLICIES AND PROCEDURES

SECTION: J - Students
POLICY TITLE: Student Discrimination and Harassment
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1. PURPOSE

Discrimination and sexual harassment are prohibited by state and federal law. Nebo School District is committed to maintaining an educational environment in which all students are treated with respect and dignity. This includes ensuring that students are not subject to sexual harassment, or to harassment or discrimination on the basis of race, color, religion, sex, national origin, disability, or any other classification protected by law.

2. POLICY

2.1 The District prohibits discrimination and sexual harassment of students by other students, employees, volunteers, or other persons at school or at school-related activities and events. Sexual harassment may involve conduct between individuals of the same or different genders. The District encourages all victims of discrimination or sexual harassment, and all persons with knowledge of discrimination or sexual harassment, to report the inappropriate conduct immediately. The District also prohibits retaliatory behavior or action against persons who complain, testify, assist, or otherwise participate in the complaint process established pursuant to this policy or by any administrative directive.

2.2 The District will promptly investigate all verbal and written complaints of discrimination and sexual harassment, and will take prompt corrective action to end the inappropriate behavior.

3. DEFINITIONS

- 3.1 “Discrimination”** includes, but is not limited to, conduct which illegally disadvantages persons based upon race, color, religion, sex, national origin, disability, or any other classification protected by law.
- 3.2 “Harassment”** includes, but is not limited to, any behavior, expression, or activity that stigmatizes or victimizes individuals or groups of people because of their personal attributes, including race, color, religion, sex, national origin, disability, or any other classification protected by law, and that:
- 3.2.1** Involves an express or implied threat which adversely affects a student’s education or academic status or progress, participation in school or school-related activities and events, or personal safety;
 - 3.2.2** Has the purpose or effect of adversely interfering with a student’s education or academic status or progress, participation in school or school-related activities and events, or personal safety; or
 - 3.2.3** Creates an intimidating, hostile, demeaning, or offensive educational environment.
- 3.3 “Sexual harassment”** includes, but is not limited to, unwelcome sexual advances, unwanted requests for sexual favors, or other unwanted verbal, visual, or physical conduct of a sexual nature made against another person of the same or opposite gender, in the educational setting, when:
- 3.3.1** Submission to the conduct is explicitly or implicitly made a term or condition of a student’s education or academic status or progress (including any aspect of the student’s participation in school activities or events);
 - 3.3.2** Submission to or rejection of the conduct by a student is used as the basis for any decisions affecting the student or the student’s academic performance, participation in school activities or events, or any other aspect of the student’s education; or regarding benefits, services, honors, programs, or activities available at or through any District program or activity; or
 - 3.3.3** The conduct has the purpose or effect of having a negative impact on the student’s academic performance, or of creating an intimidating, hostile, or offensive educational environment.
- 3.4** Types of conduct which are prohibited in the District and that may, upon examination of the totality of the circumstances in relation to discriminatory or harassing behavior, constitute discrimination or harassment based upon race, color, religion, sex, national origin, disability, or other classification protected by law include, but are not limited to:
- 3.4.1** Threatening or intimidating conduct directed at a student because of the student’s race, color, religion, sex, national origin, physical or mental disability, or other classification protected by law;
 - 3.4.2** Epithets, slurs, negative stereotypes, name calling, verbal abuse, derogatory comments, degrading descriptions, and hostile acts which are based upon a student’s race, color, religion, sex, national origin, physical or mental disability, or other classification protected by law;

- 3.4.3** Verbal, written, or graphic material containing comments or stereotypes aimed at degrading students or members of protected classes;
 - 3.4.4** Aggressive conduct towards a student motivated by race, color, religion, sex, national origin, physical or mental disability, or other classification protected by law;
 - 3.4.5** Graffiti containing offensive or derogatory language, symbols, or pictures in the context any of the legally protected classifications;
 - 3.4.6** Any unwelcome communication (whether written, verbal, or sent by electronic means, such as e-mail and text messaging on computers, palm devices, cellular phones, etc.) that is offensive or degrading and motivated by a student's race, color, religion, sex, national origin, physical or mental disability, or other classification protected by law;
 - 3.4.7** Jokes, notes, stories, drawings or pictures, gestures, or the display or distribution of offensive or degrading material based upon any of the legally protected classifications;
 - 3.4.8** Displaying words, pictures, or symbols on clothing that are offensive or degrading based upon any of the legally protected classifications; or
 - 3.4.9** Engaging in any of the foregoing types of discriminatory or harassing behavior outside of school or outside of school-related activities and events, but which materially disrupt the educational environment at school.
- 3.5** Types of conduct which are prohibited in the District and that may, upon examination of the totality of the circumstances in relation to discriminatory or harassing behavior, constitute sexual harassment under this policy include, but are not limited to:
- 3.5.1** Unwelcome leering, sexual flirtations or propositions, or any unwelcome sexual invitations or requests for sexual activity;
 - 3.5.2** Sexual slurs, epithets, name calling, threats, verbal abuse, derogatory comments, or sexually degrading descriptions;
 - 3.5.3** Graphic verbal comments about an individual's body, overly personal conversations, or any unwelcome communication (whether written, verbal, or sent by electronic means, such as e-mail and text messaging on computers, palm devices, cellular phones, etc.) that is sexually suggestive, sexually degrading, or implies sexual motives or intentions;
 - 3.5.4** Sexual jokes, notes, stories, drawings or pictures, gestures, or the display or distribution of pornographic or other sexually oriented material;
 - 3.5.5** Displaying words, pictures, or symbols on clothing that are sexually explicit or have an underlying sexual connotation, or wearing clothing in a sexually revealing or suggestive manner;
 - 3.5.6** Spreading sexual rumors;
 - 3.5.7** Teasing or sexual remarks about students enrolled in a predominantly single-gender class;
 - 3.5.8** Massaging, grabbing, fondling, stroking or brushing the body;

- 3.5.9 Touching oneself or another individual's body or clothing in a sexual way or any other offensive physical pranks or hazing;
- 3.5.10 Purposefully cornering or blocking normal movements or stalking;
- 3.5.11 Displaying sexually suggestive objects or performing/showing unwelcome and offensive skits, assemblies, and sexually suggestive productions;
- 3.5.12 Sexual activities of a criminal nature;
- 3.5.13 Unwelcome and offensive sexual public display of affection;
- 3.5.14 Engaging in the improper use of school computers and the Internet, including, but not limited to, accessing, downloading, or uploading pornography; sharing Internet pornography or e-mails with students; creating or maintaining web sites with sexual content; participating in sexual discussions with students by means of e-mail, Internet "chat rooms," Instant Messaging, or any other form of on-line communication; or
- 3.5.15 Engaging in any of the foregoing types of discriminatory or harassing behavior outside of school or outside of school-related activities and events, but which materially disrupt the educational environment at school.

4. PROHIBITED ADULT-TO-STUDENT CONDUCT

- 4.1 In addition to the above listed conduct prohibited by this policy, any behavior by a District employee or volunteer toward a student that would reasonably give the appearance of impropriety and would reasonably cause the student to feel uncomfortable is prohibited, regardless of whether such behavior is complained of by the student, regardless of whether the behavior is overtly sexual, and regardless of whether such behavior would constitute a crime.
- 4.2 Examples of adult-to-student behavior that may, upon examination of the totality of the circumstances in relation to discriminatory or harassing behavior, constitute inappropriate sexual harassment under this policy, and lead to employee discipline, up to and including termination of employment, include, but are not limited to:
 - 4.2.1 Personal communication with a student via telephone, pager, e-mail, letters, or notes for reasons unrelated to official school business;
 - 4.2.2 Obstructing access, or the view, into classrooms, closets, or storage areas by locking doors or covering windows when in a classroom or office alone with a student;
 - 4.2.3 Transporting students in a personal vehicle without permission from parents and/or supervisors, unless such transportation is necessary in the event of a health or safety emergency, or other legitimate extenuating circumstances;
 - 4.2.4 Drinking alcohol or taking illicit drugs in the presence of students, providing alcohol or drugs to students, requesting or allowing students to provide the employee with alcohol or drugs, or permitting students to drink alcohol or take drugs at school or school-related activities and events, at the employee's residence, or in any other context;
 - 4.2.5 Inviting a student to travel or go somewhere alone for non-school related reasons;
 - 4.2.6 Providing a student with gifts, money, cards, privileges, or other personal favors;

- 4.2.7 Taking students to lunch off-campus in the employee's/volunteer's personal vehicle for non-school-related reasons;
- 4.2.8 Requesting or encouraging students to "model," taking or distributing photographs of individual students, or "promoting" students on web pages or through other means, where such activities contain sexual innuendo and/or are undertaken without the parent's knowledge or consent;
- 4.2.9 Hot-tubbing or playing inappropriate party games with students;
- 4.2.10 Providing, paying for, attending, or covering up medical appointments or procedures for a student, such as tests for pregnancy or sexually transmitted diseases (STDs), labor and delivery, or abortion; or
- 4.2.11 Viewing with a student at a movie theater, on television, on video/DVD, on the Internet, or in magazines or other written media, sexually explicit or inappropriate movies, programs, pictures, or content.

5. COMPLAINT PROCEDURE

- 5.1 Students subjected to discrimination or sexual harassment are first encouraged, but not required, to confront the discriminator/harasser and tell the discriminator/harasser to stop the conduct because it is unwelcome. Complainants should document the incident(s) of discrimination/harassment using the District's Student Discrimination and Harassment Report Form. (IMC Form No. 107.2) and deliver it to the school principal or other school administrator.
- 5.2 If the complainant's concerns are not resolved satisfactorily through a discussion with the discriminator/harasser, or if the complainant feels he/she cannot discuss the concerns with the discriminator/harasser, the complainant should directly inform his/her teacher or any of his/her school's administrators. A school teacher or administrator to whom a complaint is made shall, as soon as is reasonably possible after receiving the complaint, report it to the principal or his/her designee. Complainants who contact school staff with a complaint are encouraged to submit the complaint in writing. However, complaints may be filed verbally, and the principal or the principal's designee shall document the verbal complaint on the District's Student Discrimination and Harassment Report Form (IMC Form No. 170.2). Alternate methods of filing complaints shall be made available to younger students or students with disabilities who need accommodation.
- 5.3 Any school employee who observes any incident of discrimination or sexual harassment involving a student shall report this observation to the principal or his/her designee, whether or not the victim files a complaint. Any school employee who receives a complaint of discrimination or sexual harassment from a student shall inform the student of the employee's obligation to report the complaint to the principal or his/her designee, and then shall promptly notify the principal or designee.
- 5.4 In any case of discrimination or sexual harassment involving the principal or any other District employee to whom the complaint would ordinarily be made, the employee who receives the student's report or who observes the incident shall report to the Director of Human Resources.
- 5.5 The principal or designee to whom a complaint of discrimination or sexual harassment is reported shall promptly investigate the complaint in accordance with District policy and procedures. In the event the principal or designee finds that discrimination or sexual harassment occurred, he/she shall take prompt, appropriate action to end the discrimination/harassment and address its effects on the victim.

- 5.6** If the inappropriate conduct concerns an employee, volunteer, or other adult, the principal or designee shall notify the Director of Human Resources. If the inappropriate conduct concerns only students but involves repeated violations, severe infractions such as criminal touching, or acts which would shock the conscience of a reasonable person, the principal or designee shall notify the Coordinator of Student Services. Also, the principal or designee shall refer the matter to law enforcement authorities or the Utah State Division of Child and Family Services, where appropriate or required by law.
- 5.7** All student violations of this policy shall also be documented by the principal or designee on the District's Student Information System ("SIS"). The principal or designee shall promptly provide a copy of all Student Discrimination and Harassment Report Forms (IMC Form No. 170.2) to the Director of Human Resources or the Coordinator of Student Services, as applicable.

6. CONFIDENTIALITY

- 6.1** It is District policy to respect the privacy and anonymity of all parties and witnesses to complaints brought under this policy. However, because an individual's right to confidentiality must be balanced with the District's obligations to cooperate with law enforcement, government agency investigations, legal proceedings, or to investigate and take necessary action to resolve a complaint, the District retains the right to disclose the identity of parties and witnesses to complaints in appropriate circumstances, and for other good reasons that apply to the particular situation, the principal or designee also may discuss the complaint with one or more of the following persons:
- 6.1.1** The Superintendent, Director of Human Resources, Coordinator of Student Services, Director of Elementary Education, Director of Secondary Education, Director of Special Education / Federal Programs, Director of Operations, District Legal Counsel, or other applicable District supervisor;
 - 6.1.2** The parent/legal guardian of the student who complained;
 - 6.1.3** The parent/legal guardian of an alleged student discriminator/harasser;
 - 6.1.4** A teacher or staff member whose knowledge of the students involved may help in determining who is telling the truth;
 - 6.1.5** Utah State Division of Child and Family Services for purposes of investigating child abuse reports; and
 - 6.1.6** Law enforcement agencies where the principal or designee has reasonable suspicion that the alleged discrimination or harassment involves criminal activity.
- 6.2** Where a complaint involves allegations of child abuse, the complaint shall be immediately reported to appropriate law enforcement authorities or the Utah State Division of Child and Family Services. The anonymity of both the complainant and school officials involved in the investigation will be strictly protected as required by Utah Code Ann. 62A-4a-412.

7. INVESTIGATION OF COMPLAINTS AT SCHOOL (Site Level Grievance Procedure)

- 7.1** The principal or designee shall immediately notify the Director of Human Resources if the situation involves an employee, volunteer, of any other adult. The principal or designee shall immediately notify the Coordinator of Student Services and the applicable Director of Elementary or Secondary Education if the situation involves a student wherein there have

been repeated violations, severe infractions such as criminal touching, or acts which would shock the conscience of a reasonable person.

- 7.2** In the case of discrimination or harassment that involves an employee, volunteer, or other adult, or that involves a student which meets the criteria listed above, the District administrators will give direction as to whether the initial investigation should be done on-site by the principal or designee or by the District. In the case of discrimination or harassment that involves a student which does not meet the criteria listed above, then the principal or designee shall promptly investigate all complaints of discrimination and sexual harassment.
- 7.3** With respect to on-site investigations, the principal or designee shall promptly investigate all complaints of discrimination and sexual harassment. In so doing, he/she shall talk individually with the following persons and make a record of their conversations:
- 7.3.1** The student who is complaining and his/her parent/legal guardian;
 - 7.3.2** The person accused of discrimination/harassment and, if the accused is a student, his/her parent/legal guardian;
 - 7.3.3** Anyone who witnessed the alleged conduct; and
 - 7.3.4** Anyone mentioned as having related information.
- 7.4** The investigation should commence as soon as possible following receipt of the complaint. If the alleged discriminator/harasser admits all or part of the allegations, the principal or designee should inform the accused that the objectionable conduct must cease immediately and should then take appropriate disciplinary action against the student or employee.
- 7.5** If the alleged discriminator/harasser denies the allegations, the principal or designee shall promptly conduct a further investigation including interviewing witnesses, if any.
- 7.6** When the student who complained and the alleged discriminator/harasser so agree, the principal or designee may arrange for them to resolve the complaint informally with the help of a counselor, teacher, administrator, or trained mediator. The student who complained shall never be asked to work out the problem directly with the accused person unless such help is provided and both parties agree.
- 7.7** In reaching a decision about the complaint, the principal or designee may take into account:
- 7.7.1** Statements made by the persons identified above;
 - 7.7.2** The details and consistency of each person's account;
 - 7.7.3** Evidence of how the complaining student reacted to the incident;
 - 7.7.4** Evidence of any past instances of discrimination/harassment by the accused;
 - 7.7.5** Evidence of any past discrimination/harassment complaints that were found to be untrue; and
 - 7.7.6** Any other pertinent information applicable to the particular situation.
- 7.8** To judge the severity of the discrimination/harassment, the principal or designee may take into consideration:
- 7.8.1** How the misconduct affected one or more students' education;

- 7.8.2 The type, frequency, and duration of the misconduct;
 - 7.8.3 The number of persons involved;
 - 7.8.4 The age and gender of the person accused of discrimination/harassment;
 - 7.8.5 The subject(s) of discrimination/harassment;
 - 7.8.6 The place and situation where the incident occurred;
 - 7.8.7 Other incidents at the school or school-related activities and events, including incidents of discrimination/harassment; and
 - 7.8.8 Any other pertinent information applicable to the particular situation.
- 7.9 The principal or designee shall report back to the complainant and his/her parent/legal guardian, notifying them in person or in writing that the school or District will take appropriate action to resolve the complaint. Also, the principal or designee shall instruct the complainant and his/her parent/legal guardian to report immediately if the objectionable behavior occurs again or if the alleged discriminator/harasser retaliates against them.
- 7.10 In situations involving a student, the principal or designee shall document the discrimination/harassment on SIS. Also, if the situation involves a student wherein there have been repeated violations, severe infractions such as criminal touching, or acts which would shock the conscience of a reasonable person, the principal or designee shall provide a written report of the complaint and investigation to the Coordinator of Student Services. In situations involving an employee, volunteer, or other adult, the principal or designee shall provide a written report of the complaint and investigation to the Director of Human Resources. If the principal or designee verifies that discrimination or sexual harassment occurred, this report shall describe the actions taken to end the discrimination/harassment, address the effects of the discrimination/harassment on the student discriminated against or harassed, and steps taken to prevent retaliation or further discrimination/harassment.
- 7.11 Within two (2) weeks after receiving the complaint, the principal or designee shall determine whether or not the student who complained has been further discriminated against or harassed. If the discrimination/harassment has continued or the discriminator/harasser has retaliated against the complainant, the principal or designee shall take prompt and appropriate disciplinary action. The principal or designee shall keep a record of this information and continue this follow-up as reasonably necessary.

8. DISTRICT LEVEL INVESTIGATION

- 8.1 In situations where the District determines necessary, an investigation after or in lieu of the school's on-site investigation may take place.
- 8.2 The District level investigation should commence as soon as reasonably possible following receipt of the complaint by the District administrator. In conducting this investigation, the District may choose to use an investigative team that has received training in discrimination and sexual harassment investigation or that has previous experience investigating discrimination or harassment complaints. District level investigations shall generally follow the same process and procedures set forth in this policy for site level investigations.

9. RETALIATION PROHIBITION

Any act of reprisal against any person who has filed a complaint, or has testified, assisted, or participated in any manner in an investigation, proceeding, or hearing of a discrimination or sexual harassment complaint is prohibited, and therefore, subject to disciplinary action.

10. DISCIPLINE

10.1 Any student who engages in discrimination or sexual harassment of anyone at school or at any school-related activity or event is in violation of this policy and shall be subject to disciplinary action. For students, disciplinary action may include, but is not limited to, suspension, expulsion, exclusion or loss of extracurricular activities, probation, or alternate educational placement. In imposing such discipline, all facts and circumstances of the incident(s) shall be taken into account.

10.2 If school administrators have reasonable suspicion that the harassment involves sexual assault, rape, or any other activity of a criminal nature, the District shall notify appropriate law enforcement authorities and immediately initiate proceedings to remove the accused party from the situation.

10.3 Any employee who engages in discrimination or sexual harassment of any student at school or at a school-related activity or event is in violation of this policy and shall be subject to disciplinary action. For employees, disciplinary action may include, but is not limited to, suspension, termination, verbal or written warnings/reprimands, or alternate employment placement. In imposing such discipline, all facts and circumstances of the incidents(s) shall be taken into account.

11. ENFORCEMENT

11.1 District and school administrators shall take appropriate actions to reinforce the District's Student Discrimination and Harassment Policy. As needed, these actions may include, but are not limited to, any of the following:

11.1.1 Removing vulgar or offending graffiti;

11.1.2 Providing staff in-service and student instruction or counseling;

11.1.3 Notifying parents/legal guardians of this policy;

11.1.4 Notifying the Utah State Division of Child and Family Services or law enforcement authorities; and

11.1.5 Taking appropriate disciplinary action.

12. FALSE COMPLAINTS

False, malicious, or frivolous complaints of discrimination or sexual harassment shall result in corrective or disciplinary action taken against the complainant.

13. RECORD KEEPING

13.1 The principal shall maintain a confidential record of all discrimination and sexual harassment complaints and investigations. In addition, the Director of Human Resources and the Coordinator of Student Services shall maintain a record of all reported cases of discrimination

and sexual harassment to enable the District to monitor, address, and prevent repetitive discriminatory/harassing behavior in its schools.

13.2 All complaints and allegations of discrimination and sexual harassment shall be kept confidential except as necessary to carry out the investigation or take other subsequent necessary action.

13.3 Records of site level and District level complaints and investigations shall be retained in accordance with applicable federal and state law.

14. TRAINING

Nebo School District recognizes the importance of educating its employees and students regarding the prevention of discrimination and harassment, the promotion of cultural diversity, and the observance of high ethical standards. To these ends, the District will provide ongoing training and education in this area. Notice of this policy will be distributed and training will be conducted for employees and students of the District.

15. DISSEMINATION OF POLICY

This policy may be posted on the District's web site and published in student registration materials, student and employee handbooks, parent information guides, and other appropriate school publications as directed by the District.

EXHIBITS

Nebo School District Student Discrimination and Harassment Complaint Procedures Flowchart

REFERENCES

Title VI of the Civil Rights Act of 1964
Title VII of the Civil Rights Act of 1964
Title IX of the Education Amendments of 1972
Section 504 of the Rehabilitation Act of 1973
Americans with Disabilities Act
Individuals with Disabilities Education Act

FORMS

Student Discrimination and Harassment Report Form, IMC Form 107.2.
