

## DISCRIMINATION, ~~AND HARASSMENT~~, AND RETALIATION GRIEVANCE PROCEDURE

The following procedure is designed to resolve **discrimination**, harassment and ~~discrimination~~ retaliation complaints **by and against District students, parents, employees, and third parties**, as ~~defined~~ described in board policy coded AAC, in a prompt and equitable manner. Board policy requires all students and **staff employees** to fully cooperate when asked to participate in a **discrimination**, harassment, or retaliation investigation. The procedure contained in ~~these regulations~~ **this regulation** supersedes the District's ~~policies regarding~~ complaints about personnel and bullying ~~policies~~.

### Retaliation Prohibited

The District prohibits retaliation for an individual's participation in and/or initiation of a **discrimination and/or harassment** ~~discrimination~~ complaint investigation, including instances when a complaint is not substantiated. The consequences for violating this prohibition are delineated in the **Nondiscrimination and Anti-Harassment Board Policy, coded AAC**.

### Complaint Filing Format and Deadlines

A complaint ~~Complaints can~~ be filed verbally or in writing and should be filed as soon as ~~a victim or witness of alleged harassment and/or discrimination becomes aware that alleged harassment or discrimination occurred. Complaints must be filed within statutory deadlines contained in law~~ possible after the discrimination, harassment, or retaliation allegedly occurred. Delays in filing a complaint may cause difficulties in the investigation.

### ~~With To~~ Whom Complaints May be Filed

A complaint ~~Complaints~~ may be filed with any **responsible** District employee. ~~Each district school shall print a list of responsible employees in its student handbook. Responsible~~ District employees are required to report any discrimination, ~~or~~ harassment, or retaliation to the **appropriate grievance coordinator (Title IX, 504/Title II, or Nondiscrimination) Title IX Coordinator** when they knew (e.g., received a complaint, directly observed it) or should have known it was occurring (e.g., overheard students talking about an incident, saw discriminatory or harassing graffiti or vandalism on school property). ~~Complaints other than Title IX, 504, or Title II shall be referred to the Human Resources Director.~~ Failure by a **responsible** District employee to report under this regulation may result in disciplinary action.

### Initiating Complaint Resolution Procedure

After receiving a discrimination, ~~and/or~~ harassment, ~~and/or~~ retaliation complaint or gaining knowledge of potentially discriminatory, ~~and/or~~ harassing, ~~and/or~~ retaliating conduct, the **appropriate grievance coordinator Title IX Coordinator** shall contact the complainant/~~victim~~, determine if an informal or formal investigation is appropriate, and determine if the complainant/~~victim~~ requests confidentiality. Requests for confidentiality must **shall** be handled in accordance with policy AAC.

**Prohibition on Meeting with the Accused**

At no time during the informal or formal resolution process shall the complainant be required to meet with the accused. If ~~any school official listed in this regulation is~~ **responsible** the appropriate grievance coordinator assigned to conduct or oversee the investigation is the accused, the Superintendent, or Board President (if the Superintendent is the accused) shall designate a different individual (which may be a third party) to carry out the accused's responsibilities associated with the investigation.

**Third-Party Assistance**

A school official ~~s~~ responsible for conducting or overseeing discrimination, ~~and/or~~ harassment, ~~and/or~~ retaliation investigations is authorized to receive assistance from the District's legal counsel throughout the process.

**Investigation Timeframes**

The informal resolution procedure must ~~shall~~ be completed within 30 days of a **responsible** District employee reporting the complaint or incident to the appropriate grievance coordinator, unless the investigator documents reasons for delays and communicates these reasons to the complainant and accused.

The formal resolution procedure must be completed within 60 days of a **responsible** District employee reporting the complaint or incident to the **appropriate grievance coordinator** ~~Title IX Coordinator~~ or a complainant or accused terminating the informal complaint procedure, unless the investigator documents reasons for delays and communicates these reasons with the complainant and accused. **Acceptable reasons for delays include extended school breaks when witnesses are not available, and complex cases involving multiple witnesses.**

**Interim Measures**

Pending the final outcome of an informal or formal **resolution investigation**, the District shall institute interim measures to protect the complainant and inform him/her of support services available. **Interim measures may include a district-enforced no contact order, schedule changes, academic modifications for the complainant, and/or school counseling for the complainant.** These interim measures should have ~~minimal~~ **minimum** impact on the complainant. **If the accused is a student, interim measures should also take into consideration the accused student's educational rights.**

**Informal Resolution Procedure**

~~This procedure shall not be used when the alleged discrimination or harassment may have constituted a crime.~~ This procedure ~~may~~ **shall** only be used when mutually agreed to by the complainant, the accused, and the appropriate grievance coordinator ~~and the Superintendent.~~ This procedure may not be used when the alleged discrimination, ~~and/or~~ harassment, and/or retaliation may have constituted sexual violence or any other crime. The formal resolution procedure must be used whenever the informal procedure is not permitted.

During the informal resolution process, the ~~Superintendent shall~~ investigator shall only gather ~~enough~~ information necessary to understand and resolve the complaint. Based on this fact-gathering process, ~~Superintendent shall the investigator shall~~ propose an informal resolution, which may include ~~but not limited to~~ requiring the accused to undergo training on discrimination, ~~and/or~~ harassment and/or retaliation, requiring all students and staff employees to undergo such training, instituting protection mechanisms for the complainant, and/or holding a formal meeting with the accused to review the nondiscrimination and anti-harassment policy AAC and discuss the implications of violating it. Both the complainant and the accused must agree to the informal resolution before it can be instituted.

The appropriate grievance coordinator shall monitor the implementation and effectiveness of the informal resolution procedure and initiate the formal resolution procedure if discrimination, ~~and/or~~ harassment and/or retaliation persists.

Both the complainant and the accused have the right to terminate the informal resolution procedure at any time to pursue a remedy under the formal resolution grievance procedure.

### Formal Resolution Procedure

~~This procedure must be used whenever the informal resolution procedure is not used.~~

Whenever alleged discrimination, ~~or~~ harassment, or retaliation may have constituted a crime, the Superintendent should contact law enforcement and enter into a memorandum of understanding concerning sharing of evidence and coordination of the investigation. ~~However, the District shall proceed with its investigation and this resolution procedure, regardless of the criminal investigation or outcome.~~

The fact-gathering portion of the investigation ~~must shall~~ be carried out or overseen by the appropriate grievance coordinator ~~Title IX Coordinator~~ and ~~must shall~~ consist of interviews with the complainant, the accused, and any others who may have witnessed or otherwise have knowledge of the circumstances giving rise to the alleged complaint and may involve gathering and review of information relevant to the complaint. Both the complainant and accused will have equal opportunity to present evidence and name witnesses. Witnesses must be instructed not to discuss this matter with others ~~except proper authorities.~~

The fact-gathering portion of the investigation must be completed ~~within 15-20 calendar days or~~ as soon as practical. ~~After gathering this information, the investigator shall determine if a recommendation for expulsion for an accused student or discharge for an accused teacher should be made. If this recommendation is made, the hearing shall be held in accordance to District policy and law, except that both the complainant and accused shall have an equal right to attend the hearing, have parents/spouse (for employees) and a representative present, present evidence, and question witnesses. The complainant may choose to watch the hearing remotely and appoint a representative to participate in the hearing in his/her stead.~~

**Investigation Report:**

After the fact-gathering process ~~and, if applicable, hearing~~ is complete, ~~under the Superintendent or hearing officer formal resolution procedure, the appropriate grievance coordinator~~ shall complete a written report containing a determination of whether allegations were substantiated, whether the nondiscrimination and anti-harassment policy was violated, and recommendations for corrective action, if any. The appropriate grievance coordinator shall assess if discrimination, ~~and/or~~ harassment ~~and/or retaliation~~ “more likely than not” occurred based on the following criteria:

1. Whether evidence suggests a pattern of conduct supportive of disproving the allegations of discrimination, ~~and/or~~ harassment, ~~and/or retaliation~~;
2. Whether behavior meets the definition of discrimination, harassment, and/or sexual harassment as defined in board policy;
3. Ages of the parties involved;
4. Relationship between the parties involved;
5. Severity of the conduct;
6. How often the conduct occurred, if applicable, ~~and~~;
7. How the District resolved similar complaints, if any, in the past.

~~Any disciplinary action shall be carried out in accordance with board policy, law, and, when applicable, the negotiated agreement.~~

The investigation ~~letter shall report must~~ indicate if any measures ~~shall are to be~~ instituted to protect the complainant. Such measures may include ~~but not be limited to~~ extending any interim protection measures taken during the investigation. The ~~letter shall report must~~ also inform the complainant of support services available, ~~which at a minimum must include offering school counseling services if the complainant is a student.~~

The investigation ~~letter shall report must~~ contain a monitoring plan to evaluate the effectiveness of the resolution and help prevent recurrence.

**Disciplinary Action**

~~Any disciplinary action must be carried out in accordance with board policy, law, and, when applicable, the negotiated agreement.~~

~~The appropriate grievance coordinator along with the building Principal shall determine if a recommendation for expulsion for an accused student should be made.~~

~~The appropriate grievance coordinator along with the District Superintendent shall determine if a recommendation for discharge for an accused employee should be made.~~

~~If this recommendation is made and a hearing is required, the hearing must be held in accordance with district policy and law.~~

**REQUIRED**

Descriptor Code: AAC-BR

Both the complainant and accused shall have an equal right to attend the hearing, have a representative and parent (if student) present, present evidence, and question witnesses.

The complainant may choose to appoint a representative to participate in the hearing in his/her stead.

**Notice of Outcome**

Both the complainant and the accused must be provided written notice of the outcome of the complaint. ~~The resolution listed in the investigation report shall be final and binding; however, nothing~~

**Nothing** shall prevent the parties from seeking judicial redress through a court of competent jurisdiction or through any applicable state or federal complaint procedures.

**Investigation Materials**

Investigation materials must be retained by the appropriate grievance coordinator (Title IX, 504/Title II, or Nondiscrimination) for at least six years.

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End of Dickinson Public School Board Reg. AAC-BR ..... Approved: