

Board File: AC

NONDISCRIMINATION/EQUAL OPPORTUNITY

The district is committed to providing a safe learning and work environment where all members of the school community are treated with dignity and respect. Preventing and remedying discrimination and harassment in schools is essential to ensure a nondiscriminatory, safe environment in which students can learn, employees can work and members of the public can access and receive the benefit of district facilities and programs. Schools in the district are subject to all federal and state laws and constitutional provisions prohibiting discrimination and harassment.

Discrimination or harassment in violation of this policy, by district employees, students and third parties, is strictly prohibited. All district employees and students share the responsibility to prevent discrimination or harassment from occurring at any district school or on any district property, at any district or school-sanctioned activity or event, or when such conduct has a nexus to the school, or any district curricular or non-curricular activity or event.

This policy and accompanying regulations shall apply to address all concerns regarding discrimination and harassment, including concerns regarding sexual harassment as defined by Title IX. Other nondiscrimination and anti-harassment Board policies may apply in certain circumstances, including Board Policies GBA (Open Hiring/Equal Employment Opportunity), GBAA (Sexual Harassment), JBA (Nondiscrimination/Non-Harassment of Students), JBB (Nondiscrimination on the Basis of Disability), and JBC (Sexual Harassment Under Title IX and Other Prohibited Misconduct of a Sexual Nature), but this Policy AC and related Superintendent File Policies should apply to submission of complaints of discrimination or harassment and the district's action in response to such complaints.

In keeping with these statements, the following shall be objectives of this school district:

1. To promote the rights and responsibilities of all individuals as set forth in the state and federal constitutions, pertinent legislation and applicable judicial interpretations.
2. To encourage positive experiences in terms of human values for children and adults who have differing personal and family characteristics or who come from various socio-economic, racial and ethnic groups.
3. To consider carefully, in all decisions made which affect the schools, the potential benefits or adverse consequences that those decisions might have on the human relations aspects of all segments of society.
4. To utilize educational experiences to build each individual's pride in the community in which he or she lives.
5. To initiate a process of reviewing all policies and practices of this school district in order to achieve the objectives of this policy to the greatest extent possible.
6. To investigate and resolve promptly any complaints of unlawful discrimination and harassment.

7. To investigate and appropriately discipline staff and students found to be responsible for incidents of harassment or unlawful discrimination in violation of Board policy.

A. Prohibited Harassment and Discrimination of District Students

The district prohibits discrimination of any student who seeks to participate in or benefit from the district's facilities, programs, activities or services on the basis of race, color, national origin, ancestry, creed, religion, sex, sexual orientation, gender expression, gender identity, disability, eligibility for special education services, or any other status protected by law.¹

Further, students and employees of the district, including any contracted workers in the district, are prohibited from engaging in any unwelcome physical or verbal conduct or any written, pictorial, or visual communications that is directed at a student or group of students because of that student's or group's membership in, or perceived membership in, a protected class based on disability, race, creed, color, sex, sexual orientation, gender identity, gender expression, family composition, religion, age, national origin, or ancestry, which constitutes harassment or discrimination as defined below and which conduct or communication is objectively offensive to a reasonable individual who is a member of the same protected class. The conduct or communication need not be severe or pervasive to constitute harassment or discrimination in violation of this policy. Petty slights, minor annoyances, and lack of good manners do not constitute harassment or discrimination in violation of this policy unless the slights, annoyances or lack of manners, when taken in combination and under the totality of the circumstances, are objectively offensive to a reasonable individual who is a member of the same protected class.

Whether conduct constitutes harassment or discrimination shall be judged under the "totality of the circumstances" as defined below.

1. Definitions

For purposes of Section A. of this policy, these terms have the following meanings:

- a. "**Harassment or discrimination**" directed at students means to engage in any unwelcome physical or verbal conduct or any written, pictorial, or visual communication by a student or employee that is directed at a student or group of students because of that student's or group's membership in, or perceived membership in, a protected class based on disability, race, creed, color, sex, sexual orientation, gender identity, gender expression, family composition, religion, age, national origin, or ancestry, which conduct or communication is objectively offensive to a reasonable individual who is a member of the same protected class. The conduct or communication need not be severe or pervasive to constitute harassment or discrimination and constitutes harassment or discrimination if:
 - i. Submission to the conduct or communication is explicitly or implicitly made a term or condition of the individual's access to an educational service, opportunity, or benefit;

¹ Definitions of race, sexual orientation, gender identity and gender expression shall be applied consistent with Colorado law at C.R.S. § 2-4-401 and C.R.S. § 22-32-110(1)(k).

- ii. Submission to, objection to, or rejection of the conduct or communication is used or explicitly or implicitly threatened to be used as a basis for educational decisions affecting the individual; or
- iii. The conduct or communication has the purpose or effect of unreasonably interfering with the individual's access to their educational service, opportunity, or benefit or creating an intimidating, hostile, or offensive educational environment.

Petty slights, minor annoyances, and lack of good manners do not constitute harassment or discrimination in violation of this policy unless the slights, annoyances or lack of manners, when taken in combination and under the totality of the circumstances, meet the standards set forth above.

Whether conduct constitutes harassment or discrimination is judged under the totality of the circumstances.

b. **“Totality of the Circumstances”** for purposes of this policy, may include, but is not limited to:

- i. The frequency of the conduct or communication, recognizing that a single incident may rise to the level of harassment or discrimination;
- ii. The number of individuals engaged in the conduct or communication;
- iii. The type or nature of the conduct or communication;
- iv. The duration of the conduct or communication;
- v. The location where the conduct or communication occurred;
- vi. Whether the conduct or communication is threatening;
- vii. Whether any power differential exists between the individual alleged to have engaged in harassment or discrimination and the individual alleging the harassment or discrimination;
- viii. Any use of epithets, slurs, or other conduct or communication that is humiliating or degrading;
- ix. Whether the conduct or communication reflects stereotypes about an individual or group of individuals in a protected class; or
- x. Whether the conduct includes an act of physical violence.

2. **Reporting Complaints of Discrimination or Harassment Against a Student**

A complaint alleging that a student has been discriminated against or harassed in violation of this policy may be made in writing or in person; by phone, e-mail, or by using an online form. Persons who wish to file a written complaint are encouraged to use the district's complaint form.

Students who believe they have been a victim of discrimination or harassment prohibited by this policy, or who believe they have witnessed discrimination or harassment in violation of this policy, should immediately report it to an administrator, counselor, teacher or the District's Compliance Officer.

The District's Compliance Officer is Aaron Henderson, Director of Equal Education and Employment Opportunity; 620 Wilcox Street, Castle Rock, Colorado, 80104; (303) 387-0127; ahenderson1@dcsdk12.org.

3. Confidentiality of Report of Discrimination or Harassment Against a Student

A report of discrimination or harassment is confidential and district employees shall keep information learned during an investigation of discrimination or harassment confidential to the extent practicable. Nothing prevents employees from reporting known or suspected child abuse or neglect or reporting any other criminal activity to law enforcement.

4. Investigating Complaints of Discrimination or Harassment Against a Student

Any complaints alleging discrimination or harassment against a student will be addressed by the district in accordance with the procedures found at **Superintendent File AC-R-3**; however, any alleged conduct directed at a student considered to be sexual harassment in violation of Title IX will be addressed consistent with **Superintendent File AC-R-2**.

Complaint procedures in Superintendent Files AC-R-2 and AC-R-3 must be fair, impartial, and prompt, and must include the following:

- a. That a good faith effort be made to complete an investigation and make any findings within sixty (60) days after the report, except that the period may be extended for up to thirty (30) additional days or good cause with prior written notice to the complainant and to the respondent of the delay and the reason for the delay or may extend the deadline at the request of a law enforcement agency;
- b. Preponderance of evidence as the evidentiary standard;
- c. Specification that all questions related to the investigation be directed to the individual conducting the investigation, or the individual's designee and that the investigator or designee consider patterns of misconduct as relevant evidence;
- d. A requirement that the parties be provided with the same opportunity to have an advisor or other person present during any part of the investigation process;
- e. A requirement that written updates about the status of an investigation or proceeding be provided to the parties and the parties' parents or legal guardians at each stage of the investigation or proceedings, but at least every fifteen (15) business days;
- f. A requirement that concurrent notification to the parties of the outcome of the investigation and any findings be provided to the parties;
- g. A requirement prohibiting reliance solely on a criminal investigation by a law enforcement agency in lieu of responding to a report of harassment or discrimination promptly and effectively.

5. No Retaliation

There shall be no retaliation against any student reporting discrimination or harassment or who participates in an investigation into a report of discrimination or harassment.

6. Records Retention

Records of a report of discrimination or harassment shall be maintained for a period of seven (7) years. The record of a report of discrimination or harassment includes any accommodations or supportive measures taken in response to a report or formal complaint of harassment or discrimination and documentation of the basis for the action taken in response to the report.

7. Accommodations and Supportive Measures

Accommodations and supportive measures shall be offered to a student experiencing harassment or discrimination that are designed to protect the safety of all students and that preserve and restore equal access to education for the student. Accommodations and supportive measures may include, but are not limited to, counseling, extensions or deadlines or other course-related adjustments, extra time for homework or tests, the opportunity to resubmit a homework or tests, the opportunity to resubmit homework or retake a test, remedying an impacted grade, excused absences, the opportunity for home instruction, modifications to class schedules, and restrictions on contact between the parties to a report of harassment or discrimination.

Supportive measures may be provided as soon as a report of harassment or discrimination is received. A formal report or finding of harassment or discrimination is not required before providing supportive measures to a student.

8. Prohibition of Disciplinary Response for Code of Conduct Violation in Certain Circumstances

Disciplinary action may not be taken against a student based on a student report of harassment or discrimination, whether verbal or in writing, or information revealed in any investigation or disciplinary proceedings of the report for any of the following conduct: engaging in reasonable self-defense against the respondent; consensual sexual activity; drug use; alcohol use; late arrival; truancy; unauthorized access to facilities; talking publicly about the reported harassment or discrimination or expressing a trauma symptom. However, nothing in this section prohibits a disciplinary response to a student who knowingly makes a false report of harassment or discrimination or when necessary to ensure the safety of any student or district employee. A finding of no harassment or discrimination does not itself constitute a false report.

9. Notice

This Section A of Board Policy AC prohibiting discrimination and harassment of students shall be made available to students, students' parents and legal guardians, and employees by:

- a. Prominently displaying the policy information on the homepage of the district's and schools' websites;
- b. Annually distributing the policy information through electronic means to parents and legal guardians of enrolled students separately from the distribution of any other document;

- c. Annually distributing the policy information through electronic means to students enrolled in sixth through twelfth grade separately from the distribution of any other document;
- d. Providing a physical copy of the policy information to each incoming student and the parent or legal guardian of each incoming student, upon request; and
- e. Annually distributing the policy to employees.

Each school shall post notices in multiple places in the school describing how and to whom a student can report harassment or discrimination to the school. The notices must be conspicuously posted in easily accessible and well-lit places customarily frequented by students and employees.

10. Training

The district shall provide training to all employees consistent with the requirements of state and federal law. This training must include a requirement for the training of each new employee upon hiring and at least every three (3) years thereafter; except that an employee must complete training when transferring from a position working with elementary school-aged students to a position working with secondary school-aged students, or transferring from a position working with secondary school-aged students to a position working with elementary school aged students.

11. Incident Reporting Requirements

The district shall implement reporting procedures consistent with state law which requires, on or before July 1, 2025, and before each July 1 of each year thereafter, that each of its public schools report the following information:

- a. The number of formal harassment or discrimination reports received by the school and the type of bias reported when harassment or discrimination was found; and
- b. The time to complete each investigation and to make findings related to each report.

12. Resources for Victims of Violence

Contact information for resources to support students who are victims of include:

a. Douglas County Sheriff's Office Domestic Violence Support:

- i. [DCSO Victim Assistance Advocate](#) and information regarding resources available at 303-660-7535
- ii. [The Crisis Center](#) 24/7 line at 303-688-8484

b. Violence Free Colorado at <https://www.violencefreecolorado.org/>

c. SafeHouse Denver (offers support to survivors of domestic violence) 24-Hour Crisis and Information Line: 303.318-9989

- d. **Colorado Department of Human Resources Domestic Violence Program at <https://cdhs.colorado.gov/dvp>**
- e. **National Domestic Violence Hotline**
Hours: 24/7. Languages: English, Spanish and 200+ through interpretation service
800-799-7233
- f. **Crisis Center at <https://www.thecrisiscenter.org/>**
24/7 Crisis Line: 303-688-8484

B. Discriminatory or Unfair Employment Practices Prohibited

The district shall not refuse to hire, discharge, promote or demote, harass during the course of employment, or discriminate in matters of compensation, terms, conditions, or privileges of employment against any individual otherwise qualified because of disability, race, creed, color, sex, sexual orientation, gender identity, gender expression, marital status, religion, age, national origin, or ancestry.

1. Definitions

For purposes of Section B. of this policy, these terms have the following meanings:

- a. **“Harass” or “Harassment”** means to engage in any unwelcome physical or verbal conduct or any written, pictorial, or visual communication directed at an individual or group of individuals because of that individual’s or group’s membership in, or perceived membership in, a protected class based on disability, race, creed, color, sex, sexual orientation, gender identity, gender expression, marital status, religion, age, national origin, or ancestry,² the right to be admitted to or participate in an apprenticeship training program, an on-the-job training program, or any other occupational instruction, training, or retraining program, which conduct or communication is subjectively offensive to the individual alleging harassment and is objectively offensive to a reasonable individual who is a member of the same protected class. The conduct or communication need not be severe or pervasive to constitute a discriminatory or an unfair employment practice and is a violation of this policy if:
 - i. Submission to the conduct or communication is explicitly or implicitly made a term or condition of the individual’s employment;
 - ii. Submission to, objection to, or rejection of the conduct or communication is used as a basis for employment decisions affecting the individual; or
 - iii. The conduct or communication has the purpose or effect of unreasonably interfering with the individual’s work performance or creating an intimidating, hostile, or offensive working environment.

² Definitions of race, sexual orientation, gender identity and gender expression shall be applied consistent with Colorado law at C.R.S. § 2-4-401 and C.R.S. § 22-32-110(1)(k).

Petty slights, minor annoyances, and lack of good manners do not constitute harassment unless the slights, annoyances or lack of manners, when taken individually or in combination and under the totality of the circumstances, meet the standards set forth above.

- c. **“Totality of the Circumstances”** for purposes of this policy, may include, but is not limited to:
- i. The frequency of the conduct or communication, recognizing that a single incident may rise to the level of harassment or discrimination;
 - ii. The number of individuals engaged in the conduct or communication;
 - iii. The type or nature of the conduct or communication, recognizing that conduct or communication that, at one time, was or is welcome between two or more individuals may become unwelcome to one or more of those individuals;
 - iv. The duration of the conduct or communication;
 - v. The location where the conduct or communication occurred;
 - vi. Whether the conduct or communication is threatening;
 - vii. Whether any power differential exists between the individual alleged to have engaged in harassment and the individual alleging the harassment;
 - viii. Any use of epithets, slurs, or other conduct or communication that is humiliating or degrading; and
 - ix. Whether the conduct or communication reflects stereotypes about an individual or group of individuals in a protected class.

2. **Reporting and Investigating Alleged Discrimination or Harassment in the Workplace**

Any employee may file a complaint alleging discrimination or harassment in violation of this policy. Complaints may be made orally or in writing. Persons who wish to file a written complaint are encouraged to use the district's complaint form. A complainant's allegation(s) will be investigated in accordance with **Superintendent Policy AC-R-1**, except that any alleged conduct directed at an employee considered to be sexual harassment in violation of Title IX will be addressed consistent with **Superintendent File AC-R-2**.

C. **Prohibited Discrimination and Harassment of the Public**

As an educational institution and place of public accommodation, the district will not discriminate against or harass any individual who seeks to participate in or benefit from the district's facilities, programs, activities or services on the basis of race, color, national origin, ancestry, creed, religion, sex, marital status, sexual orientation, gender expression or gender identity, or disability.³ Preventing and remedying such harassment in district sponsored programs and activities is essential to ensure a nondiscriminatory, safe environment in which members of the public can access and receive the benefit of district facilities and programs.

³ Definitions of race, sexual orientation, gender identity and gender expression shall be applied consistent with Colorado law at C.R.S. § 2-4-401 and C.R.S. § 22-32-110(1)(k).

1. Definitions

For purposes of Section B. of this policy, these terms have the following meanings:

- a. **“Harassment”** is any unwelcome, hostile and offensive verbal, written or physical conduct based on or directed at a person's race, color, sex, gender expression or gender identity, marital status, sexual orientation, religion, national origin, ancestry, creed, or disability that:

- (1) results in physical, emotional or mental harm, or damage to property;
- (2) is sufficiently severe, persistent, or pervasive that it interferes with an individual's ability to participate in or benefit from an educational program or activity or creates an intimidating, hostile or threatening environment; or
- (3) substantially disrupts the orderly operation of the school.

Harassing conduct may take many forms, including but not limited to:

- i. verbal acts and name-calling;
- ii. graphic depictions and written statements, which may include use of cell phones or the Internet;
- iii. other conduct that may be physically threatening, harmful or humiliating.

2. Reporting and Investigating Alleged Discrimination or Harassment Against Members of the Public

Any person may file a complaint alleging discrimination or harassment in violation of this policy. Complaints may be made orally or in writing. Persons who wish to file a written complaint are encouraged to use the district's complaint form. A complainant's allegations will be investigated in accordance with **Superintendent Policy AC-R-1**.

D. Annual Notice

In addition to the notice requirements of this Policy contained at Section A.9. above, the district shall issue a written notice prior to the beginning of each school year that advises students, parents, employees and the general public of this policy and its prohibitions against discrimination and harassment in the district's programs, activities, and learning and work environments. The announcement shall also include the name, address, email address and telephone number of the individuals designated to coordinate Title IX, Section 504 and ADA compliance activities.

The notice shall be disseminated to persons with limited English language skills in the person's own language. It shall also be made available to persons who are visually or hearing impaired.

The notice shall appear on a continuing basis in all district media containing general information, including: teachers' guides, school publications, the district's website, recruitment materials, application forms, vacancy announcements, student handbooks, school program notices, summer program newsletters and annual letters to parents.

E. Sexual Harassment in Violation of Title IX

Certain forms of sexual harassment are specifically addressed by Title IX. Sexual harassment prohibited by Title IX means conduct on the basis of sex that satisfies one or more of the following:

1. An employee of the District conditions the provision of an aid, benefit, or service of the District on an individual's participation in unwelcome sexual conduct;
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District's education program or activity;
3. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

The District shall implement specific procedures consistent with the requirements of Title IX, including a Title IX Sexual Harassment Grievance Process.

F. Obligations to Report Discrimination and Harassment

Any student who believes he or she has been a victim of discrimination or harassment as defined in Board policy, or who has witnessed such discrimination or harassment, shall immediately report it to an administrator, counselor, teacher or the district's compliance officer and file a complaint.

Any employee, applicant for employment or member of the public who believes he or she has been a victim of unlawful discrimination or harassment, or who has witnessed such unlawful discrimination or harassment, shall file a complaint with either an immediate supervisor or the district's compliance officer.

If the individual alleged to have engaged in prohibited conduct is the person designated as the compliance officer, an alternate compliance officer shall be designated to investigate the matter in accordance with AC-R-1, AC-R-2, or AC-R-3, as appropriate.

G. District Action

All district employees who witness discrimination or harassment in violation of this policy shall take prompt and effective action to stop it, as prescribed by the district.

The district shall take appropriate action to promptly and impartially investigate allegations of discrimination or harassment in violation of this policy, to end the behavior, to prevent the recurrence of such behavior and to prevent retaliation against the individual(s) who files the complaint and/or any person who participates in the investigation. When appropriate, the district shall take supportive measures or make accommodations during the investigation to protect against further discrimination, harassment or retaliation in violation of this policy.

To the extent possible, all reports of discrimination or harassment in violation of this policy will be kept confidential. Students or employees who knowingly file false complaints or give false statements in an investigation may be subject to discipline, up to and including

suspension/expulsion for students and termination of employment for employees. No student, employee or member of the public shall be subject to adverse treatment in retaliation for any good faith report of harassment under this policy.

Upon determining that incidents of discrimination or harassment in violation of this policy are occurring in particular district settings or activities, the district shall implement measures designed to remedy the problem in those areas or activities.

Any student or employee who engages in discrimination or harassment in violation of this policy shall be disciplined according to applicable Board policies and the district shall take reasonable action to restore lost educational or employment opportunities to the victim(s).

In cases involving potential criminal conduct, the compliance officer shall determine whether appropriate law enforcement officials should be notified.

H. Notice and Training

To reduce discrimination and harassment in violation of this policy and ensure a respectful school environment, the administration is responsible for providing notice of this policy to all district schools and departments. The policy and complaint process shall be referenced in student and employee handbooks and otherwise available to all students, staff, and members of the public through electronic or hard-copy distribution. Training materials regarding sexual harassment under Title IX shall be made available to the public on the District's website.

Students and district employees shall receive periodic training related to recognizing and preventing discrimination and harassment. District employees shall receive additional training related to handling reports of discrimination and harassment in violation of this policy. The training will include, but not be limited to:

- awareness of groups protected under state and federal law and/or targeted groups;
- how to recognize and react to discrimination and harassment; and
- proven harassment prevention strategies.

Adopted: July 21, 1992

Revised: April 7, 1998, to reflect current law

Revised: November 1999, to reflect current law

Revised: November 19, 2002

Revised cross references: June 30, 2004

Revised: September 2, 2008

Revised: September 3, 2019

Revised: August 4, 2020

Revised: _____

LEGAL REFS.:

20 U.S.C. §1681 (Title VII, Education Amendments of 1972)
20 U.S.C. §1701-1758 (Equal Employment Opportunity Act of 1972)
29 U.S.C. §621 et seq. (Age Discrimination in Employment Act of 1967)
29 U.S.C. §701 et seq. (Section 504 of the Rehabilitation Act of 1973)
42 U.S.C. §12101 et seq. (Title II of the Americans with Disabilities Act)
42 U.S.C. §2000d (Title VI of the Civil Rights Act of 1964, as amended in 1972)
42 U.S.C. §2000e (Title VII of the Civil Rights Act of 1964)
42 U.S.C. §2000ff et seq. (Genetic Information Nondiscrimination Act of 2008)
34 C.F.R. Part 100 through Part 110 (civil rights regulations)
C.R.S. 2-4-401_(13.5) (definition of sexual orientation, which includes transgender)
C.R.S. 18-9-121 (bias-motivated crimes)
C.R.S. 22-1-143 (harassment or discrimination directed at students)
C.R.S. 22-32-109 (1)(II) (Board duty to adopt written policies prohibiting discrimination)
C.R.S. 24-34-301 et seq. (Colorado Civil Rights Division)
C.R.S. 24-34-301 (7) (definition of sexual orientation, which includes transgender)
C.R.S. 24-34-402 et seq. (discriminatory or unfair employment practices)
C.R.S. 24-34-402.3 (discrimination based on pregnancy, childbirth or related conditions; notice of right to be free from such discrimination must be posted "in a conspicuous place" accessible to employees)
C.R.S. 24-34-601 (unlawful discrimination in places of public accommodation)
C.R.S. 24-34-602 (penalty and civil liability for unlawful discrimination)

CROSS REFS.:

GBA, Open Hiring/Equal Employment Opportunity
GBAA, Sexual Harassment Under Title IX and Other Prohibited Misconduct of a Sexual Nature (Employees)
JBA, Nondiscrimination/Non-Harassment of Students
JBB, Nondiscrimination on the Basis of Disability
JBC, Sexual Harassment Under Title IX and Other Prohibited Misconduct of a Sexual Nature (Students)
JICDE, Bullying Prevention and Education
AC-R-1, Nondiscrimination/Equal Opportunity (Complaint and Compliance Process)
AC-R-2, Title IX Sexual Harassment Grievance Process
AC-R-3, Complaint and Grievance Process in Response to Alleged Discrimination or Harassment Directed at Students [To Be Adopted]