

Harrisburg School District	NEPN Code: AC-R
Policy Manual	

RESOLUTION OF DISCRIMINATION COMPLAINTS

A complaint may be filed by a student, parent/guardian, employee or other citizen when it is felt that a violation of Policy AC Equal Opportunity/ Nondiscrimination has occurred. Confidentiality, to the extent possible, will be maintained at each level of the complaint procedure.

The complainant is encouraged to attempt to resolve the issue informally by working with the administrator most directly involved in the situation before filing a formal complaint. However, it is understood that for some issues this may not be appropriate.

A. **Reporting Incidents of Discrimination**

Any person who believes he or she has been the victim of discrimination by a student or an employee of the District will report the alleged acts immediately.

1. **Designated Personnel.** A complaint filed by a student, parent/guardian, employee or other citizen when it is felt that a violation of Policy AC has occurred. Formal Complaints are filed with Civil Rights Officer/Title IX Coordinator (Human Resources Manager).
2. **Complaint Form.** The form should be completed by the person filing the complaint or the designated administrator. The form shall include Complainant's name and address, Date(s) of incident(s), Description of the incident(s), names of the person(s) involved in the incident(s), name of any witness(es) to the incident(s), what action (if any) has been taken, requested resolution of the complainant, signature of the complainant.
3. **Submission of a complaint or report of discrimination.** Submission of a complaint or report of discrimination will not affect the individual's employment or work assignments.
4. **Confidentiality.** The District will make attempts to respect the confidentiality of the complainant and the individual(s) against whom the complaint is filed as much as possible consistent with the District's legal obligations and the necessity to investigate allegations of discrimination and take disciplinary action when the conduct has occurred.
5. **Required Reporting.** If the accusations include possible criminal activity such as molestation, sexual battery, or similar contact, the Civil Rights Officer/Title IX Coordinator shall comply with all mandatory state reporting requirements including, but not limited to, contact with the State Department of Social Services. Nothing in this grievance procedure forecloses individuals from seeking redress for their concerns through other legal avenues, such as law enforcement, the Office of Civil Rights, the Equal Employment Opportunity Commission or the South Dakota Division of Human Rights.

B. **Investigation**

Upon receipt of a written report alleging discrimination, the Civil Rights Officer/Title IX Coordinator shall immediately authorize an investigation. This investigation may be conducted by District officials or by a third party designated by the District. The investigating party shall provide a written report of the status of the investigation within ten (10) working days to the Superintendent and the Civil Rights Officer/Title IX Coordinator.

In determining whether alleged conduct constitutes discrimination, the District should consider the surrounding circumstances, the nature of the advances, if any, relationships between the parties involved, and the context in which the alleged incidents occurred.

The investigation may consist of personal interviews with the complainant, the individual(s) against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or

circumstances giving rise to the complaint. The investigation may also consist of any other methods and documents deemed pertinent by the investigating party.

In addition, the District may take immediate steps at its discretion to protect the complainant, students, and employees pending completion of an investigation of alleged discrimination.

During the investigation all parties directly involved in the complaint may have legal or other representation. If any party elects to be represented at any step of the complaint procedure, the name of the representative must be declared in writing to the Civil Rights Officer/Title IX Coordinator within two (2) days of the filing of the complaint, notification of any investigation, or the filing of any appeal.

C. School District Action

1. Upon receipt of a recommendation that the allegations of a complaint constitute a violation of District policy, the District will take such action as appropriate based upon the results of the investigation.
2. The results of the investigation of each complaint will be reported in writing and kept on file in the Human Resources Department. The report shall include findings of fact and will document the disciplinary action taken, if any, as a result of the complaint. A finding will be determined on the basis of whether it is more likely than not that the conduct as alleged occurred.
3. The complainant will be advised of the District decision in writing on a form supplied by the District within ten (10) working days from the conclusion of the investigation.
4. If either party is not satisfied with the written decision rendered by the District, he or she may appeal the decision in writing to the Superintendent within ten (10) working days following receipt of the decision. The appeal must include the original Complaint Investigation form, a copy of the written decision, and a written statement as to the reason for appeal.
5. The Superintendent will review the material submitted, investigate the circumstances, and respond in writing within fourteen (14) working days of the appeal with a determination to uphold, modify, or reverse the District decision. At the Superintendent's discretion, an additional investigation may be conducted, including interviews with the complainant, the individual(s) against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The appeal may include any other methods or documents deemed pertinent by the Superintendent.
6. If either party is not satisfied with the decision rendered by the Superintendent, he or she may request a hearing in executive session with the School Board. The request for hearing must be submitted in writing through the Superintendent's Office within ten (10) working days following receipt of the Superintendent's response. The appeal must include the original Complaint Investigation form, a copy of the written decision from the Superintendent, and a written statement as to the reasons for appeal. The hearing will be scheduled within thirty (30) working days of the request for hearing. The parties involved will be notified in writing of the time and date of the scheduled hearing.
7. The School Board will render a decision in writing within ten (10) working days following the hearing.

D. Prohibition against Retaliation

The District will discipline any individual who retaliates against any person who reports alleged discrimination or who retaliates against any person who testifies, assists, or participates in any

investigation, proceeding, or hearing related to a discrimination complaint.

Retaliation includes, but is not limited to, any form of intimidation, reprisal, or discrimination.

Retaliation is itself a violation of federal and state laws prohibiting discrimination and may lead to separate disciplinary action against an individual.

If any school personnel or student who has filed a complaint or has testified, assisted, or participated in the investigation of discrimination believes that he or she has been retaliated against because of his or her participation, he or she should follow the procedures set forth above.

E. False Charges

Charges found to have been intentionally dishonest or made maliciously without regard for truth may subject complainants and those conspiring with complainants to disciplinary action.

F. Uncomfortable Situations

The District recognizes that not every uncomfortable situation constitutes discrimination. Whether a particular action or incident is a personal, social relationship without a discriminatory employment effect requires a determination based on all the facts and surrounding circumstances. False accusations can have a serious detrimental effect on innocent parties.

G. Discipline

Any action taken by the District pursuant to this policy will be consistent with requirements of applicable collective bargaining agreements and District policies. The District will take such disciplinary action it deems necessary and appropriate, including but not limited to, warning, suspension, or immediate discharge to end discrimination and prevent its recurrence.

Legal References:

Title VI of the Civil Rights Act of 1964 (discrimination based on origin or race)
Title IX of the Education Amendments of 1972 (discrimination based on gender)
Title VII of the Civil Rights Act of 1964 (discrimination based on race, color, creed, religion, gender (including pregnancy), national origin or ancestry)
Age Discrimination Act of 1975 (discrimination based on age)
Genetic Information Non-discrimination Act (discrimination based on genetic information)
Americans with Disabilities Act (discrimination based on disability)
Section 504 of the Rehabilitation Act (discrimination based on disability)

Cross References: ACB: Nondiscrimination on the Basis of Handicap/Disability
FEFA: Contractor's Fair Employment Clause
GBA: Equal Opportunity Employment
JB: Equal Educational Opportunities

Adopted: March 24, 2014

Revised: June, 2018