

## **DISCRIMINATION & HARASSMENT GRIEVANCE PROCEDURE**

The following procedure is designed to resolve harassment and discrimination complaints as defined in board policy in a prompt and equitable manner. Board policy requires all students and staff to fully cooperate when asked to participate in a harassment investigation. The procedure contained in these regulations supersedes the district's complaints about personnel and bullying policies.

### **Retaliation Prohibited**

The District prohibits retaliation for an individual's participation in and/or initiation of a harassment/discrimination complaint investigation, including instances when a complaint is not substantiated. The consequences for violating this prohibition are delineated in policy.

### **Complaint Filing Format and Deadlines**

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.

### **To Whom Complaints May be Filed**

Complaints may be filed with any responsible employee. Responsible employees are required to report any discrimination/harassment to the Superintendent 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). Failure by a responsible employee to report under this regulation may result in disciplinary action.

### **Initiating Complaint Resolution Procedure**

After receiving a discrimination/harassment complaint or gaining knowledge of potentially discriminatory/harassing conduct, the Superintendent 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 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 as responsible for conducting or overseeing 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**

School officials responsible for conducting/overseeing discrimination/harassment investigations are authorized to receive assistance from the district's legal counsel throughout the process.

### **Investigation Timeframes**

The informal resolution procedure shall be completed within 30 days of a responsible employee reporting the complaint or incident to the Superintendent unless the investigator documents reasons for delays and communicates these reasons with the complainant and accused. The formal resolution procedure shall be completed within 60 days of a responsible employee reporting the complaint or incident to the Superintendent 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.

### **Interim Measures**

Pending the final outcome of an informal or formal investigation, the District shall institute interim measures to protect the complainant and inform him/her of support services available. These interim measures should have minimum impact on the complainant.

### **Informal Resolution Procedure**

This procedure shall not be used when the alleged discrimination or harassment may have constituted a crime. This procedure shall only be used when mutually agreed to by complainant and the Superintendent.

During this process, the Superintendent shall only gather enough information to understand and resolve the complaint. Based on this fact-gathering process, the Superintendent shall propose an informal solution, which may include, but not be limited to, requiring the accused to undergo training on harassment/discrimination, requiring all students and staff to undergo such training, instituting protection mechanisms for the complainant, and/or holding a formal meeting with the accused to review the harassment/discrimination policy 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 Superintendent shall monitor the implementation and effectiveness of recommendations and initiate the formal resolution procedure below if harassment/discrimination persists.

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

### **Formal Resolution Procedure**

Whenever alleged discrimination or harassment 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.

The fact-gathering portion of the investigation shall be carried out by the Superintendent and 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 shall be instructed not to discuss this matter with others.

The fact-gathering portion of the investigation shall 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 with 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, the Superintendent or hearing officer (if a hearing was held) shall complete a written report containing a determination of whether allegations were substantiated, whether the discrimination/ harassment policy was violated, and recommendations for corrective action, if any. These determinations shall be made on a case-by-case basis. The Superintendent/hearing officer shall assess if discrimination/harassment more than likely not occurred based on, but not limited to, the following criteria:

1. Whether evidence suggests a pattern of conduct supporting or disproving the allegations or harassment or discrimination
2. Whether behavior meets the definition of harassment, sexual harassment, and/or discrimination 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
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 indicate if any measures shall 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 also inform the complainant of support services available.

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

The resolution listed in the investigation report shall be final and binding; however, nothing shall prevent the parties from seeking judicial redress through a court of competent jurisdiction or through any applicable state or federal complaint procedures.

End of Ashley School District #9 Board Reg. AAC-BR .....Approved: January 10, 2018