FIRST READING BY BOARD

po2260.01

Vol. 35, No. 2 - Special Update - Nondiscrimination - July 2026 WI Replacement SECTION 504/ADA PROHIBITION AGAINST DISCRIMINATION BASED ON DISABILITY

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Replacement Policy - Vol. 35, No. 2 - Special Update - Nondiscrimination

2260.01 **- SECTION 504/ADA PROHIBITION AGAINST DISCRIMINATION BASED ON DISABILITY**

Pursuant to Section 504 of the Rehabilitation Act of 1973 ("Section 504"), the Americans with Disabilities Act of 1990, as amended ("ADA"), and the implementing regulations (collectively "Section 504/ADA"), the Board shall not discriminate on the basis of disability in its education programs and activities. Specifically, the Board shall not, on the basis of disability, exclude from participation in, deny the benefits of, or subject to discrimination qualified persons with disabilities in the District's programs or activities.

Definitions

Words used in this policy shall have those meanings defined herein; words not defined herein shall be construed according to their plain and ordinary meanings.

Individual with a disability means any person who: (1) has a physical or mental impairment that substantially limits one or more major life activities; (2) has a record of such an impairment; or (3) is regarded as having such an impairment.

Physical impairment means any physiological disorder or condition, somatic disfigurement, or anatomical loss affecting one or more listed body systems. These include neurological, musculoskeletal, special sense organs, respiratory or speech, cardiovascular, reproductive, digestive, genito-urinary, hemic/lymphatic, skin, and endocrine body systems.

Mental impairment means any mental or psychological disorder, such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

Substantially limits means the impairment substantially limits an individual's ability to perform a major life activity as compared to most people in the general population. An impairment need not prevent, or significantly or severely restrict, the performance of a major life activity in order to be considered substantially limiting. The term shall be construed broadly in favor of expansive coverage.

Major life activity means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, eating, sleeping, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, sitting, reaching, interacting with others, and working.

Major life activities also include the operation of a major bodily function, including, but not limited to, functions of the immune system, special sense organs and skin, normal cell growth, and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, hemic, lymphatic, musculoskeletal and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system.

Qualified Individual with a Disability

With respect to public preschool, elementary, and secondary educational services, a qualified individual with a disability means a student with a disability:

A. who is of an age during which persons without disabilities are provided educational services;

B. who is of any age during which it is mandatory under Wisconsin law to provide educational services to persons with disabilities; or

C. to whom the State is required to provide a free appropriate public education pursuant to the IDEA.

With respect to vocational education services, a qualified individual with a disability means a student with a disability who meets the academic and technical standards requisite to admission or participation in the vocational program or activity. The Board will not deny a student with disability access to its vocational education programs or courses due to architectural and/or equipment barriers, or because the student needs related aids or services to receive an appropriate education.

With respect to employment, a qualified individual with a disability means the individual satisfies the requisite skill, experience, education and other job-related requirements of the employment position the individual holds or desires and can perform the essential functions of the job in question, with or without reasonable accommodation.

Complainant is the individual who alleges or is alleged to have been subjected to discrimination/retaliation, regardless of whether the person files a formal complaint or is pursuing an informal resolution to the alleged discrimination/retaliation.

Respondent is the individual who is alleged to have engaged in discrimination/retaliation, regardless of whether the Complainant files a formal complaint or is seeking an informal resolution to the alleged discrimination/retaliation.

District community means students, District employees (i.e., administrators and professional and support staff), and Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

Third Parties include but are not limited to guests and/or visitors on District property (e.g., visiting speakers, participants on opposing athletic teams, parents), vendors doing business with or seeking to do business with the Board, and other individuals who come in contact with members of the District community at school-related events/activities (whether on or off District property).

Day(s): Unless expressly stated otherwise, the term "day" or "days" as used in this policy means business day(s) (i.e., a day(s) that the District office is open for normal operating hours, Monday – Friday, excluding State-recognized holidays).

Section 504 Referrals, Evaluations, and Free Appropriate Public Education

If a District staff member suspects that a student has a physical or mental impairment that substantially limits one or more major life activities, they shall refer the student for an evaluation. Any other individuals who suspect the student has a disability, including the parents and outside providers, may submit a referral. If the District refuses to conduct an evaluation, prior written notice of the District's decision and a notice of procedural safeguards will be provided to the parents.

Evaluations shall be conducted in accordance with the procedural requirements of Section 504, including that tests and other evaluation materials have been validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the instructions; are tailored to assess specific areas of educational need and are not merely designed to provide a single general intelligence quotient; and are administered so as to best ensure that the test results accurately reflect the student's aptitude or achievement level or whatever other factor the test purports to measure. A special education evaluation conducted in accordance with the Individuals with Disabilities Education Act (IDEA) complies with the procedural requirements of Section 504.

A Section 504 Team, comprised of a group of people knowledgeable about the student, the meaning of evaluation data, and placement options will convene to review the evaluation and determine eligibility under Section 504.

The determination of whether an impairment substantially limits a major life activity must be made without regard to the ameliorative effects of mitigating measures such as medication, medical supplies, equipment or appliances, low-vision devices (not including ordinary eyeglasses or contact lenses), prosthetics (including limbs and devices), hearing aids and cochlear implants or other implantable hearing devices, mobility devices, oxygen therapy equipment or supplies, assistive technology, reasonable accommodations or auxiliary aids or services, or learned behavioral or adaptive neurological modifications. An impairment that is episodic in nature or in remission is considered a disability if it would substantially limit a major life activity when active.

If the 504 Team determines that the student has a physical or mental impairment that substantially limits one or more major life activities (see definitions below), the Board shall provide the student with a free appropriate public education (FAPE). For the purposes of Section 504, an appropriate education means the provision of regular or special education and related aids and services that are designed to meet the individual educational needs of students with disabilities as adequately as the needs of students without disabilities are met.

The regular or special education and related aids and services (including accommodations and modifications) that the student needs to receive FAPE, if any, and the student's placement will be documented in a Section 504 Plan. ~~**( ) _____ [INSERT FORM NAME AND NUMBER, IF APPLICABLE] [END OF OPTION]**~~ Parents/guardians will have the opportunity and are strongly encouraged to meaningfully participate in the evaluation process and development of a Section 504 Plan.

In interpreting evaluation data and making placement determinations, the District shall draw upon, consider, and document information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior. The District shall also ensure that placement decisions are made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options.

Students with disabilities will be educated with students without disabilities to the maximum extent appropriate. Generally, the District will place a student with a disability in the general education environment unless it is demonstrated that the education of the student in the general education environment, even with the use of supplementary aids and services, cannot be achieved satisfactorily. If the District places a student in a setting other than the general education environment, it shall take into account the proximity of the alternate setting to the student's home. If the Board operates a separate class or facility that is identified as being provided for students with disabilities, the facility, program, and activities and services must be comparable to the facilities, programs, and activities and services offered to students without disabilities.

[X] (See also ag2260.01A – Section 504/ADA Prohibition Against Discrimination Based on Disability, Including Procedures for the Identification, Evaluation, and Placement of

Students Suspected of Having Disabilities, and the Right to FAPE).

Nonacademic Extracurricular Activities

The District will provide non-academic extra-curricular services and activities in such a manner as is necessary to afford qualified students with disabilities an equal opportunity for participation in such services and activities. Nonacademic and extra-curricular services and activities may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the District, referrals to agencies that provide assistance to individuals with disabilities, and employment of students. In providing or arranging for the provision of meals and recess periods and nonacademic and extracurricular services and activities, including those listed above, the District will verify that students with disabilities participate with students without disabilities in such services and activities to the maximum extent appropriate.

Reasonable Accommodations

With respect to employment, the Board will provide a reasonable accommodation to a qualified individual who has an actual disability or who has a record of a disability, unless the accommodation would impose an undue hardship on the operation of the Board's program and/or activities. A reasonable accommodation is not required for an individual who is merely regarded as having a disability.

Facilities

No qualified person with a disability will be denied the benefits of, excluded from participation in, or otherwise subjected to discrimination under any program or activity to which Section 504/ADA applies because the District's facilities are inaccessible to or unusable by persons with disabilities.

For facilities constructed or altered after June 3, 1977, the District will comply with applicable accessibility standards. For those existing facilities constructed prior to June 3, 1977, the District is committed to operating its programs and activities so that they are readily accessible to persons with disabilities.

District Compliance Officers (hereinafter referred to as the "COs")

The following person(s) is/are designated as the District Section 504/ADA Compliance Officer(s)/Coordinator(s):

~~**[DRAFTING NOTE: Neola suggests the Board appoint two coordinators if practicable – one with expertise in student-related 504 matters (e.g., Director of Special Education and Pupil Services) and one with expertise in employment-related 504 matters (e.g., Director of Human Resources). Additionally, by**~~

~~**appointing two (2) COs, there should always be a CO available to investigate a claim that pertains to the other CO.**~~

Sarah Trimner
Director of Talent and Culture
6100 Alderson Street
Weston, WI 54476
715-359-4221 ext. 1225
strimner@dce.K12.wi.us

Gina Lehman
Director of Student Services
6100 Alderson Street
Weston, WI 54476
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gilehman@dce.K12.wi.us

~~_____ (Name) _____ (School District Title) _____ (Telephone Number) _____ (Office Address) _____ (E-mail)~~

~~_____~~
~~(Name)~~
~~_____~~
~~(School District Title)~~
~~_____~~
~~(Telephone Number)~~
~~_____~~
~~(Office Address)~~
~~_____~~
~~(E-mail)~~

The name(s), title(s), and contact information of this/these individual(s) will be published annually:

A. on the School District's website.

B. **( )** in the staff and student handbooks.

C. **(X)** in the School District Annual Report to the public.

D. **( )** on each individual school's website.

E. **( )** in the School District's calendar.

F. **( )** _____.

The COs are responsible for coordinating the District's efforts to comply with applicable Federal and State laws and regulations, including the District's duty to address in a prompt and equitable manner any inquiries or complaints regarding discrimination/retaliation or denial of equal access. The COs also shall verify that proper notice of nondiscrimination for Title II of the Americans with Disabilities Act (as amended), Title VI and Title VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973 (as amended), and the Age Discrimination in Employment Act of 1975 is provided to staff members and the general public. A copy of each of the Acts and regulations on which this notice is based will be made available upon request from the CO.

Internal Complaint/Grievance Procedures

In accordance with Section 504, parents and students shall be notified of their right to file an internal complaint/grievance regarding an alleged violation, misinterpretation, or misapplication of Section 504.

The Board provides for the prompt and equitable resolution of complaints alleging violations of Section 504/ADA.

Students and District employees are required, and all other members of the District community and Third Parties are encouraged, to promptly report incidents of discrimination and/or retaliation to an administrator, supervisor, or other District official so that the Board may address the conduct. Any teacher, administrator, supervisor, or other District employee or official who receives such a complaint shall file it with the CO within two (2) days. **[DRAFTING NOTE: While students are advised to report discrimination/retaliation to administrators, supervisors, or other District officials, the Board recognizes that some students may report discrimination/retaliation to a teacher. When a teacher receives such a report, the teacher must file it with the CO as indicated above.]**

Members of the District community, which includes students or Third Parties, who believe they have been discriminated/retaliated against are entitled to utilize the complaint process set forth below. Initiating a complaint, whether formally or informally, will not adversely affect the Complainant's employment or participation in educational or extra-curricular programs. While there are no time limits for initiating complaints under this policy, individuals should make every effort to file a complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available.

A student and/or parent may initiate the internal complaint procedure when they believe that a violation, misapplication or misinterpretation of Section 504 has occurred. Additionally, the following procedure may be used for any disagreement with respect to actions regarding the identification, evaluation, or educational program or placement of students who are identified as having a disability or believed to have a disability pursuant

to Section 504 and are not eligible under the IDEA, except in the case of disciplinary actions where the provisions of the Student Code of Conduct apply. Use of the internal complaint procedure is not a prerequisite to the pursuit of other remedies, including the filing of a complaint with the OCR or requesting an impartial due process hearing.

If during an investigation of alleged bullying, aggressive behavior and/or harassment in accordance with Policy 5517.01 - Bullying, the Principal believes that the reported misconduct may constitute discrimination based on a Protected Class, the Principal shall report the act to one of the COs, who shall investigate the allegation in accordance with this policy. While the CO investigates the allegation, the Principal shall suspend the Policy 5517.01 investigation to await the CO's written report. The CO shall keep the Principal informed of the status of the Policy 2260 investigation and provide the Principal with a copy of the resulting written report.

The COs will be available during regular school/work hours to discuss concerns related to discrimination/retaliation. COs shall accept reports of discrimination/retaliation directly from any member of the District community or a Third Party and reports that initially are made to another District employee. Upon receipt of a report of alleged discrimination/retaliation, the CO will contact the Complainant and begin either an informal or formal complaint process (depending on the Complainant's request and the nature of the alleged discrimination/retaliation) or designate a specific individual to conduct such a process.

The CO will provide a copy of this policy to the Complainant and the Respondent. In the case of a formal complaint, the CO will prepare recommendations for the Superintendent or oversee the preparation of such recommendations by a designee. All members of the District community must report incidents of discrimination/retaliation that are reported to them to the CO within two (2) days of learning of the incident/conduct.

Any District employee who directly observes discrimination/retaliation of a student is obligated, in accordance with this policy, to report such observations to one of the COs within two (2) days. Additionally, any District employee who observes an act of discrimination/retaliation is expected to intervene to stop the misconduct unless circumstances make such an intervention dangerous, in which case the staff member should immediately notify other District employees and/or local law enforcement officials, as necessary, to stop the misconduct. Thereafter, the CO/designee must contact the Complainant if age eighteen (18) or older or the Complainant's parents/guardians if the student is under the age of eighteen (18) within two (2) days to advise of the Board's intent to investigate the alleged wrongdoing.

Investigation and Complaint Procedure (see Form 2260.01B F2)

The CO shall investigate any complaints brought under this policy. Throughout the course of the process as described herein, the CO should keep the parties reasonably informed of the status of the investigation and the decision-making process.

All complaints must include the following information to the extent known: a description of the alleged violation, the identity of the Respondent; a detailed description of the facts upon which the complaint is based (i.e., when, where, and what occurred); a list of potential witnesses; and the resolution sought by the Complainant.

If the Complainant is unwilling or unable to provide a written statement including the information set forth above, the CO shall ask for such details in an oral interview. Thereafter the CO will prepare a written summary of the oral interview, and the Complainant will be asked to verify the accuracy of the report by signing the document.

Upon receiving a complaint, the CO will consider whether any action should be taken during the investigatory phase to protect the Complainant from further discrimination or retaliation, including but not limited to a change of work assignment or class schedule for the Complainant and/or the Respondent. In making such a determination, the CO should consult the Complainant to assess whether the individual agrees with the proposed action. If the Complainant is unwilling to consent to the proposed change, the CO still may take whatever actions are deemed appropriate in consultation with the Superintendent.

As soon as appropriate in the investigation process, the CO will inform any individual named by the Complainant in connection with an alleged violation of this policy, that a complaint has been received. The person(s) must also be provided an opportunity to respond to the complaint.

Within two (2) days of receiving the complaint, the CO or designee will initiate an investigation by, at a minimum, confirming receipt of the complaint with the Complainant and informing the Complainant of the investigation process.

~~**[ ] [OPTION 1]** Although certain cases may require additional time, the CO will attempt to complete an investigation into the allegations of harassment within fifteen (15) days of receiving the formal complaint.~~ **[X]** ~~**[OPTION 2]**~~ Investigations shall be completed promptly. What constitutes promptness will depend on the complexity of the issues, the number of incidents or factual elements, the number of witnesses and documents to be consulted, and the availability of witnesses and other evidence. The CO shall keep the Complainant reasonably informed of the investigation's progress. ~~**[END OF OPTIONS]**~~ The investigation will include:

A. interview(s) with the Complainant;

B. interview(s) with the Respondent;

C. interviews with any other witnesses who reasonably may be expected to have any information relevant to the allegations, as determined by the CO;

D. consideration of any documentation or other information presented by the Complainant, Respondent, or any other witness which is reasonably believed to

be relevant to the allegations, as determined by the CO.

At the conclusion of the investigation, the CO or the designee shall prepare and deliver a written report to the Superintendent which summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of discrimination/retaliation as provided in Board policy and State and Federal law as to whether the Respondent has engaged in harassment/retaliation of the Complainant. The CO's recommendations must be based upon the totality of the circumstances. In determining if discrimination or retaliation occurred, a preponderance of evidence standard will be used.

[X **]** The CO may consult with the Board's attorney during the course of the investigatory process and/or before finalizing the report to the Superintendent.

In cases where no District CO is able to investigate a complaint due to concerns regarding conflicts, bias or partiality, or for other reasons that impair the CO's ability to conduct an investigation, the CO may **(** X **)** in consultation with the Superintendent ~~Superintendent~~ or Board President, if the matter involves the Superintendent, **[END OF OPTION]** engage outside legal counsel to conduct the investigation consistent with this policy.

Absent extenuating circumstances, within five (5) days of receiving the report of the CO or designee, the Superintendent must either issue a final decision regarding whether the charges have been substantiated or request further investigation. A copy of the Superintendent's final decision will be delivered to the Complainant and to the Respondent. The Superintendent may redact information from the decision in the event the release of information raises concerns regarding the integrity of the complaint or investigation process. The Board authorizes the Superintendent to consult with legal counsel to determine the extent to which information in an investigation report must be provided to either the Complainant or Respondent.

If the Superintendent requests additional investigation, the Superintendent must specify the additional information that is to be gathered, and such additional investigation must be completed within five (5) days. At the conclusion of the additional investigation, the Superintendent must issue a final written decision as described above. The decision of the Superintendent ~~( ) shall be final~~ **(** X **)** will be reviewed **[END OF OPTION]** by the Board upon request.

If the Complainant feels that the decision does not adequately address the complaint, the Complainant may appeal the decision to the State Superintendent of Public Instruction.

The Board reserves the right to investigate and resolve a complaint or report of discrimination/retaliation regardless of whether the Complainant pursues the complaint. The Board also reserves the right to have the complaint investigation conducted by an external person in accordance with this policy, or in such other manner as deemed appropriate by the Board or its designee.

The parties may be represented, at their own cost, at any of the above-described interviews/meetings.

The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the OCR or ICRC, the filing of charges with local law enforcement, or the filing of a civil action in court. Use of this internal complaint process is not a prerequisite to the pursuit of other remedies.

Additional School District Action

If the evidence suggests that any conduct at issue violates any other policies of the Board, is a crime, or requires mandatory reporting under the Children's Code (Sec. 48.981, Wis. Stat.), the CO or Superintendent shall take additional such actions as necessary and appropriate under the circumstances, which may include a report to the appropriate social service and/or law enforcement agency charged with responsibility for handling such investigations.

Privacy/Confidentiality

The District will employ all reasonable efforts to protect the rights of the Complainant, the Respondent(s), and the witnesses as much as possible, consistent with the District's legal obligations to investigate, take appropriate action, and comply with any discovery or disclosure obligations. Confidentiality cannot be guaranteed, however. All Complainants proceeding through the investigation process should be advised that as a result of the investigation, allegations against individuals may become known to those individuals, including the Complainant's identity.

All records generated under the terms of this policy shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed. Additionally, the Respondent must be provided the Complainant's identity.

During the course of an investigation, the CO or designee will instruct each person who is interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of an investigation is expected not to disclose to third parties any information that is learned or provided during the course of the investigation.

Remedial Action and Monitoring

If warranted, appropriate remedial action shall be determined and implemented on behalf of the Complainant, including but not limited to counseling services, reinstatement of leave taken due to the discrimination, the opportunity to complete assignments missed due to absences related to the discrimination, or other appropriate action.

The Board may appoint an individual, who may be a District employee, to follow up with the Complainant to ensure no further discrimination or retaliation has occurred and to take action to address any reported occurrences promptly.

Sanctions and Disciplinary Action

The Board shall vigorously enforce its prohibitions against discrimination by taking appropriate action reasonably calculated to stop and prevent further misconduct.

While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable State law and the terms of any relevant code of conduct.

When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter, including the age and maturity level of any student involved. In those cases where discrimination/retaliation is not substantiated, the Board may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies.

Where the Board becomes aware that a prior disciplinary action has been taken against the Respondent, all subsequent sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to end such conduct, prevent its recurrence, and remedy its effect.

Impartial Due Process Hearing

Parent(s)/guardian(s) or an adult student may request an impartial due process hearing before an Impartial Hearing Officer (IHO) to challenge the District's actions regarding the identification, evaluation or educational placement of their child. The student and/or parent may but are not required to first exhaust the above internal complaint/grievance procedure before requesting an impartial due process hearing.

Requests for impartial due process hearings shall be submitted in writing to the District's Section 504 Coordinator. The request should include the name and address of the child, the name of the school where the child is attending, a description of the issue(s) to be resolved at the hearing, the facts giving rise to those issues, and a proposed resolution. The request must be submitted within two (2) years of the date on which the parent(s)/guardian(s) knew or should have known of the alleged facts/actions that form the basis for the hearing request.

Within fifteen _____ (15) ~~**[INSERT AMOUNT]**~~ calendar days of receiving the request, the District will appoint a qualified IHO who meets the following criteria:

A. may not be an employee of the District;

B. may not have a personal or professional interest that conflicts with their objectivity in the hearing;

C. must possess knowledge of, and the ability to understand, the provisions of Section 504 and legal interpretations by federal and state courts; and

D. must possess the knowledge of and ability to conduct a hearing and write decisions in accordance with standard legal practices.

The hearing shall be held within ninety ~~_____~~ (90) ~~[INSERT AMOUNT]~~ calendar days of receiving the request, unless the IHO extends the timeline for good cause or the parties mutually agree to an extension. The IHO will give the parent and/or student written notice of the hearing, which will include the issues presented and the date, time and location of the hearing.

The IHO shall conduct the hearing in a manner that will afford all parties a full and fair opportunity to present evidence and to otherwise be heard. The parent(s)/guardian(s) and student may participate in the hearing, present evidence, cross-examine witnesses, and be represented by an attorney at their own expense. The IHO shall keep a complete and accurate record of the proceedings.

The IHO shall render a decision in writing to the parties within thirty ~~_____~~ (30) ~~[INSERT AMOUNT]~~ calendar days following the conclusion of the hearing. The decision will be based solely on the evidence presented at the hearing and shall include findings of fact, conclusions of law, and appeal rights. **[DRAFTING NOTE: In selecting the above timelines, districts may choose to use the timelines for due process hearing complaints under the IDEA, as compliance with the procedural requirements of the IDEA means compliance with the procedural requirements of Section 504.]**

Appeal of the IHO's decision may be made to a Federal court of competent jurisdiction.

OCR Complaint

At any time, if a student or parent believes that the student has been subjected to discrimination based upon disability in violation of Section 504 or the ADA, the student or parent may file a complaint with the OCR. The OCR can be reached at:

Office for Civil Rights, Denver Office
U.S. Department of Education
Cesar E. Chavez Memorial Building
1244 Speer Boulevard, Suite 310
Denver, CO 80204-3582
Telephone: (303) 844-5695
FAX: (303) 844-4303

E-mail: OCR.Denver@ed.gov
Web: https://www.ed.gov/about/ed-offices/ocr

Except in extraordinary circumstances, the OCR does not review the result of individual placement and other educational decisions, so long as the District complies with the "process" requirements of Subpart D of Section 504.

Notice

Notice of the Board's policy on nondiscrimination in education practices and the identity of the COs will be published on the District's website and posted throughout the District, and included in the District's recruitment statements or general information publications.

Retaliation

Retaliation against a person who makes a report or files a complaint alleging discrimination/retaliation or participates as a witness in an investigation is prohibited. Neither the Board nor any other person may intimidate, threaten, coerce or interfere with any individual because the person opposed any act or practice made by any Federal or State civil rights law, made a report/formal complaint, testified, assisted or participated, or refused to participate in any manner in an investigation, proceeding, or hearing under those laws and/or this policy, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws and/or this policy.

Retaliation against a person for making a report of discrimination, filing a formal complaint, or participating in an investigation or meeting is a serious violation of this policy that can result in imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

Formal complaints alleging retaliation may be filed according to the internal complaint process set forth above.

The exercise of rights protected under the First Amendment of the United States Constitution does not constitute retaliation prohibited under this policy.

Education and Training

In support of this policy, the Board promotes preventative educational measures to create greater awareness of discriminatory practices. The Superintendent shall provide appropriate information to all members of the District community related to the implementation of this policy and shall provide training for District students and staff where appropriate. All training and information provided regarding the Board's policy and discrimination in general will be age and content appropriate.

Retention of Investigatory Records and Materials

The CO is responsible for overseeing retention of all records that must be maintained pursuant to this policy. All individuals charged with conducting investigations under this policy shall retain all information, documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and received as part of an investigation, including but not limited to:

A. all written reports/allegations/complaints/statements;

B. narratives of all verbal reports, allegations, complaints, and statements collected;

C. a narrative of all actions taken by District personnel;

D. any written documentation of actions taken by District personnel or individuals contracted or appointed by the Board to fulfill its responsibilities;

E. narratives of, notes from, or audio, video, or digital recordings of witness statements;

F. all documentary evidence;

G. e-mails, texts, or social media posts related to the investigation;

H. contemporaneous notes in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.) pertaining to the investigation;

I. written disciplinary sanctions issued to students or employees and a narrative of verbal disciplinary sanctions issued to students or employees for violations of the policies and procedures prohibiting discrimination or harassment;

J. dated written determinations to the parties;

K. dated written descriptions of verbal notifications to the parties;

L. written documentation of any supportive measures offered and/or provided to the Complainant and/or the Respondent, including no contact orders issued to both parties, the dates issued, and the dates the parties acknowledged receipt;

M. documentation of all actions, both individual and systemic, taken to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects;

N. copies of the Board policy and/or procedures/guidelines used by the District to conduct the investigation, and any documents used by the District at the time of the

alleged violation to communicate the Board's expectations to students and staff with respect to the subject of this policy (e.g., Student Codes of Conduct and/or Employee Handbooks);

O. copies of any documentation that memorializes any formal or informal resolutions to the alleged discrimination or harassment;

P. documentation of any training provided to District personnel related to this policy, including but not limited to, notification of the prohibitions and expectations of staff set forth in this policy and the role and responsibility of all District personnel involved in enforcing this policy, including their duty to report alleged violations of this policy and/or conducting an investigation of an alleged violation of this policy; **[DRAFTING NOTE: Documentation of training should be maintained regardless of whether there is an investigation of an alleged violation of this policy. It is best practice to maintain a log of all staff members who participate in a training, along with the date, time and location of the training, and a copy of the materials reviewed and/or presented during the training.]**

~~**[DRAFTING NOTE: The following options should be selected if the District concludes that the following items are not adequately encompassed in the preceding paragraphs.]**~~

Q. ~~( )~~ ~~documentation that any rights or opportunities that the District made available to one party during the investigation were made available to the other party on equal terms;~~

R. ~~( )~~ ~~copies of any notices sent to the alleged perpetrator/responding party of the allegations constituting a potential violation of this policy;~~

S. ~~( )~~ ~~copies of any notices sent to the Complainant and the Respondent in advance of any interview, meeting, or hearing;~~

T. ~~( )~~ ~~copies of any notices sent to the Complainant and alleged perpetrator in advance of any interview or hearing;~~

U. ~~( )~~ ~~copies of any documentation or evidence used during informal and formal disciplinary meetings and hearings, including the investigation report, and any written responses submitted by the Complainant or the Respondent.~~

Additionally, the CO shall retain copies of any written request for an impartial due process hearing, the IHO's notices to the parties, the evidence entered in the hearing, any transcript of the hearing, and the IHO's decision.

The information, documents, ESI, and electronic media (as defined in Policy 8315 - Information Management) retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records).

The information, documents, ESI, and electronic media (as defined in Policy 8315 - Information Management) created or received as part of an investigation shall be retained in accordance with Policy 8310 - Public Records, Policy 8315 - Information Management, Policy 8320 - Personnel Records, Policy 8330 - Student Records for not less than three (3) years, but longer if required by the District's records retention schedule.

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29 C.F.R. Part 1630
34 C.F.R. Part 300
34 C.F.R. Part 104
42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, as amended