

Browning Public Schools
Board Agenda Request
Meeting To Be Held: 2/26/20



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- Recognition:** Students Staff Parents
Information: Building Report Old Business Superintendent's Report
Action: Resignation Hiring Contract Service Agreements
 Travel Out-of-State Travel In State Approvals
 Termination Legal Matters Other:
 This action request pertains to Elementary (only) High School/District Wide
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Date: 2/18/20

To: **Board of Trustees**
 Browning Public Schools

From: Corrina Guardipee-Hall
Title: Superintendent

Subject: **Remove/Repeal Board Policy #5090 Complaint Procedure/Discrimination**

Description: Recommend the Board repeal policy #5090 Complaint Procedure/Discrimination.

Attachment(s): Policy to be removed #5090; Board Policy Development #1310

Approval: Superintendent's Office/Finance/Personnel as applicable (Initial) _____

Comments: _____

Board Action: N/A (Info) Approved Denied Tabled to: _____

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2
3 **Browning Public Schools**
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5 Policy #5090

6 Policy Name: *Complaint Procedure, Alleged Discrimination*

7 **Regulation:** -----
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9 **Employee Obligations:** All employees of School District No. 9 have a responsibility to maintain a positive
10 working environment by reporting all incidents or rumors of sexual harassment or other forms of discrimination,
11 intimidation or retaliation involving themselves or others. Employees who observe or hear about any incidents or
12 rumors of sexual harassment or other forms of discrimination, intimidation or retaliation are required to report the
13 incidents or rumors to the Title IX Compliance Officer or the superintendent. Employees who believe that they
14 may have been the subject of sexual harassment or intimidation or the subject of any other form of discrimination
15 or retaliation prohibited by Board Policy Nos. 5050 - 5070 should immediately contact their respective
16 supervisors, the Title IX Compliance Officer or the superintendent.
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18 **Administrative Reporting Obligations:** All supervisors of the District are directed to report any above-
19 described incident immediately and directly to the Title IX Compliance Officer or the superintendent. In the
20 event the Title IX Compliance Officer is contacted, he or she will immediately contact and relay the complaint to
21 the superintendent. If the Title IX Compliance Officer is the alleged violator, all reports will be directed to the
22 superintendent who will then be in charge of the investigation and vice versa.
23

24 **Informal Measures:** The District is committed to the prompt and effective resolution of all complaints of sexual
25 harassment, other forms of discrimination or retaliation of any kind. An employee may voluntarily choose
26 informal measures but will in all cases be entitled to utilize the options and steps available to them through the
27 more formal procedure outlined below. In the event the employee does not view the harassment, discrimination
28 or retaliation as severe and he or she wishes to attempt to resolve the matter informally, some of the following
29 informal measures may be attempted:
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- 31 • Informing the offending individual that his or her behavior is unwelcome, offensive or inappropriate.
32 Confrontation by the employee is not required, however, and may be accomplished through written
33 communication developed with the assistance of and delivered by the Title IX Compliance Officer or
34 the superintendent or his or her designee.
- 35 • Notify a supervisor, the Title IX Compliance Officer or the superintendent. Early reporting is crucial
36 and absolutely necessary for the District to assist in addressing the unwanted behavior.
- 37 • Keep notes, a journal or other records of dates, times, places and witnesses to offending conduct. Save
38 all such notes and records in a safe place.
- 39 • Request a copy of this policy from a supervisor, the Title IX Compliance Officer or the superintendent
40 or his or her designee so that reporting procedures are clear.
41

42 **Formal Measures:** An employee may at any time choose to initiate a formal procedure to resolve a complaint of
43 sexual harassment, discrimination or retaliation. In no event will an employee's attempt at informal resolution be
44 used to delay or excuse the District's responsibility to promptly investigate reports of sexual harassment, other
45 forms of discrimination or retaliation, with or without a formal complaint. All employees are encouraged and
46 permitted to have a friend or advisor present with them for moral support during any stage of the reporting and
47 investigation process.

48 **STEP 1:** If an employee does not wish to pursue any informal measures to resolve his or her complaint, or such
49 measures are not successful, the employee should contact a supervisor, the Title IX Compliance Officer or the
50 superintendent and advise him or her of the employee's complaint. If the initial report is made to a supervisor or
51 the Title IX Compliance Officer, he or she will refer the matter to the superintendent. The formal complaint
52 should be made within thirty (30) days of the events or incidents giving rise to the complaint. Again, early

1 reporting is crucial and necessary for the District to assist in addressing the unwanted behavior.

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3 The Title IX Compliance Officer or the Superintendent or his/her designee will assist the employee in drafting a
4 written summary of the complaint that outlines the nature of the complaint and the remedy sought by him or her.
5 The Title IX Compliance Officer or the superintendent or his or her designee will then proceed to investigate the
6 complaint and may, in his/her discretion, secure the services of a professional investigator to assist in conducting
7 the investigation.

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9 The Title IX Compliance Officer or the Superintendent or his/her designee will endeavor to have the investigation
10 completed within thirty (30) days after his/her receipt of the written summary. Upon completion of the
11 investigation, the Title IX Compliance Officer or the superintendent or his or her designee will prepare a written
12 report (which may be based in all or part on any report prepared by an outside investigator) that includes the
13 following:

- 14 ❖ a clear statement of the allegations of the complaint and the remedy sought by the employee;
- 15 ❖ a statement of the facts as contended by each of the parties to the complaint;
- 16 ❖ a statement of the facts as determined by the superintendent, his/her designee or outside investigator;
- 17 ❖ A list of all witnesses interviewed and documents reviewed during the investigation;
- 18 ❖ The Title IX Compliance Officer's or the superintendent's or his or her designee's conclusion as to
19 whether the allegations in the complaint are meritorious; and
20
- 21 ❖ If the conclusion is that the complaint is valid, a statement of the remedy to be implemented.

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23 The Title IX Compliance Officer or the superintendent or his or her designee will endeavor to have the
24 investigative report completed no later than ten (10) days after the completion of the investigation. Upon
25 completion of the report, the Title IX Compliance Officer or the superintendent or his or her designee will
26 promptly meet with the parties to the complaint and advise them of the results of the investigation and of the
27 remedy to be implemented.

28
29 **STEP 2:** If the employee or the subject of the complaint is dissatisfied with the investigation, report or remedy,
30 either party may seek to have the Board of Trustees review the Title IX Compliance Officer's or the
31 superintendent's or his or her designee's action. That procedure must be initiated by a written request for review
32 by the Board of Trustees. Upon receipt of the written request, the matter will be placed on the agenda for
33 consideration by the Board of Trustees at their next regularly scheduled meeting.

34
35 After hearing from all affected parties, the Board of Trustees shall take action to either, affirm, reject or modify
36 the actions of the Title IX Compliance Officer or the superintendent or his or her designee. The decision of the
37 Board of Trustees will be final.

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39 In the event that part or all of the remedy to be implemented involves a recommendation to the Board of Trustees
40 by the superintendent for the dismissal or suspension without pay of an employee, the Board hearing conducted
41 with respect to such recommendation will serve as the Step 2 Board review under this procedure. Any decision
42 reached by the Board of Trustees with respect to the superintendent's recommendation under those circumstances
43 may be appealed as may be provided for by law.

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45 **Confidentiality:** Any reports of sexual harassment, other form of discrimination or retaliation will be kept in
46 confidence to the maximum extent feasible. The District's obligation to investigate and take corrective action
47 may, however, ultimately require disclosure of the names of parties, witnesses and allegations. The District will
48 endeavor in all instances to keep the need for such disclosure to a minimum. Pending the completion of any
49 investigation, the Title IX Compliance Officer or the superintendent or his or her designee is authorized to take

1 any action necessary to protect the alleged victim, or any other individuals assisting with or otherwise
2 participating in the investigation.
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4 **Documentation:** The District will maintain a record of all complaints of sexual harassment, other forms of
5 discrimination and retaliation in the office of the Title IX Compliance Officer or the superintendent's office, or
6 wherever he or she may otherwise designate. Such records will not be placed in the permanent files of employees
7 without their knowledge and the records will remain confidential.
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9 **Retaliation:** Retaliation against any employee reporting sexual harassment or any other form of discrimination
10 prohibited by law or policy, anyone assisting in reporting such a complaint or anyone cooperating in the
11 investigation of any such complaint is strictly prohibited. Such retaliation is a violation of the law and may serve
12 as the basis for a separate and independent complaint.
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14 **Sanctions:** Consistent with the requirements of applicable laws and regulations, the superintendent or his/her
15 designee may take or recommend such action against any employee determined to have engaged in sexual
16 harassment or any other form of discrimination, or retaliation, as he or she deems appropriate after the completion
17 of the investigation. Such action may include disciplinary action up to and including a recommendation by the
18 superintendent for termination of employment.
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20 **Other Complaint Measures:** Nothing in this complaint procedure prevents an employee from pursuing his/her
21 complaint of sexual harassment, other forms of discrimination of any kind or retaliation through other appropriate
22 avenues. At any time during this complaint process, an employee may initiate a complaint with the Montana
23 Human Rights Bureau or the U.S. Department of Education's Office for Civil Rights. The address and telephone
24 numbers for those agencies are as follows:
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26 Montana Human Rights Bureau
27 P.O. Box 1728
28 Helena, MT 59624-1728
29 (406) 444-2884
30
31

Office of Public Instruction
P.O. Box 202501
Helena, MT 59620-2501
(406) 444-4402
32

33 **Office for Civil Rights:** Federal Building
34 1244 Speer Blvd
35 Denver, CO 80204-36582
36 (303) 844-2991
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38 **False Accusations:** Charges of sexual harassment, any other form of discrimination or retaliation are a serious
39 matter and will be promptly responded to and investigated by the District. Employees should not be afraid of
40 making good faith reports of sexual harassment or other forms of discrimination or retaliation, even if such
41 reports might be erroneous. However, employees who knowingly perpetrate false or fabricated accusations will
42 be held responsible for their actions and may be subject to disciplinary action as listed in SANCTIONS above.
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44 **Contact Persons:** As outlined above, complaints of sexual harassment, any other form of discrimination or
45 retaliation should be directed to a supervisor, the Title IX Compliance Officer or the superintendent. The names,
46 office locations and telephone numbers for those individuals are as follows:
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48 Emorie Davis Bird/Designee
49 Title IX Compliance Officer
50 Administration Building
51 129 First Avenue SE
52 Browning, MT 59417
53 (406) 338-2715 Ext. 4281
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Corrina Guardipee-Hall
Superintendent
Administration Building
129 First Avenue SE
Browning, MT 59417
(406) 338-2715 Ext. 4208

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Cross References: #5050 Equal Employment Opportunity/Non-Discrimination
#5060 Discrimination, Sexual Harassment and Retaliation
#5070 Accommodating Individuals with Disabilities
Formerly Policy #5012

Legal References: Title VII of the Civil Rights Act, 42 U.S.C. §§ 2000(e), et seq.,
29 C.F.R. § 1604.11
Title IX of Education Amendments, 20 U.S.C. §§ 1681, et seq.
Montana Constitution, Art. X, § 1
§ 49-2-101, MCA Human Rights Act
Harris v. Fork Lift Systems, 114 S. Ct. 367 (1993)

Policy History:
Adopted on: 10/10/00
Revised on: 2/28/01, 3/4/14