

DRAFT UPDATE

Mid-Valley Special Education Cooperative

2:260

Cooperative Board

Uniform Grievance Procedure

A student, parent/guardian, employee, or community member should notify any Cooperative Complaint Manager if he or she believes that the Advisory Board, its employees, or its agents have violated his or her rights guaranteed by the State or federal Constitution, State or federal statute, or Board policy, or have a complaint regarding any one of the following:

1. Title II of the Americans with Disabilities Act
2. Title IX of the Education Amendments of 1972
3. Section 504 of the Rehabilitation Act of 1973
4. Individuals with Disabilities Education Act, 20 U.S.C. § 1400 *et seq.*
5. Title VI of the Civil Rights Act, 42 U.S.C. § 2000d *et seq.*
6. Equal Employment Opportunities Act (Title VII of the Civil Rights Act), 42 U.S.C. § 2000e *et seq.*
7. Sexual harassment (Illinois Human Rights Act, Title VII of the Civil Rights Act of 1964, and Title IX of the Education Amendments of 1972)
8. ~~Breastfeeding accommodations for students, 105 ILCS 5/10-20.60 (P.A. 100-29, final citation pending)~~
- 8-9. Bullying, 105 ILCS 5/27-23.7
- 9-10. Misuse of funds received for services to improve educational opportunities for educationally disadvantaged or deprived children
- +0-11. Curriculum, instructional materials, and/or programs
- +1-12. Victims' Economic Security and Safety Act, 820 ILCS 180
- +2-13. Illinois Equal Pay Act of 2003, 820 ILCS 112
- +3-14. Provision of services to homeless students
- +4-15. Illinois Whistleblower Act, 740 ILCS 174/
- +5-16. Misuse of genetic information (Illinois Genetic Information Privacy Act (GIPA), 410 ILCS 513/ and Titles I and II of the Genetic Information Nondiscrimination Act (GINA), 42 U.S.C. § 2000ff *et seq.*
- +6-17. Employee Credit Privacy Act, 820 ILCS 70/

The Complaint Manager will first attempt to resolve complaints without resorting to this grievance procedure. If a formal complaint is filed under this ~~procedure policy~~, the Complaint Manager will address the complaint promptly and equitably. A student and/or parent/guardian filing a complaint under this ~~procedure policy~~ may forego any informal suggestions and/or attempts to resolve it and may proceed directly to the grievance procedure. The Complaint Manager will not require a student or parent/guardian complaining of any form of harassment to attempt to resolve allegations directly with the accused (or the accused's parents/guardians); this includes mediation.

Right to Pursue Other Remedies Not Impaired

The right of a person to prompt and equitable resolution of a complaint filed hereunder shall not be impaired by the person's pursuit of other remedies, e.g., criminal complaints, civil actions, etc. Use of this grievance procedure is not a prerequisite to the pursuit of other remedies and use of this grievance procedure does not extend any filing deadline related to the pursuit of other remedies. If a person is pursuing another remedy subject to a complaint under this policy, the Cooperative will continue with a simultaneous investigation under this policy.

Commented [APowell1]:

Title II of the ADA of 1990 also includes website accessibility. Addressing website accessibility is complicated. Many entities addressing website accessibility use *Web Content Accessibility Guidelines* (WCAG) 2.0, a frequently cited accessibility standard that contains guidelines developed by a private group of accessibility experts. WCAG 2.0 is the standard the U.S. Dept. of Justice referenced in its recent Title II rulemaking. While it is not adopted as the formal legal standard for public accommodation websites, it has been used in many consent decrees and settlement agreements. Find it at: www.w3.org/TR/WCAG20/.

To avoid allegations that a district violated Section 504 of the Rehabilitation Act of 1973 and Title II of the ADA of 1990, many attorneys suggest that school districts' websites meet the WCAG 2.0 guidelines.

See also policy 8:70, *Accommodating Individuals with Disabilities*.

Issue 95, July 2017

Commented [AP2]: Added to the list because (new) Section 10-20.60 states that schools must process student complaints under the Ill. sex equity rules (23 Ill. Admin. Code § 200), which require a school to follow a written grievance procedure. Section 10-20.60 provides a separate basis for a complaint, although Title IX may also apply.

Issue 96, October 2017

Commented [APowell3]:

Edits are made throughout to clarify that, although titled "Uniform Grievance Procedure," this is a Board policy.

Issue 95, July 2017

DRAFT UPDATE

Deadlines

All deadlines under this ~~procedure-policy~~ may be extended by the Complaint Manager as he or she deems appropriate. As used in this policy, *school business days* means days on which the Cooperative's main office is open.

Filing a Complaint

A person (hereinafter Complainant) who wishes to avail him or herself of this grievance procedure may do so by filing a complaint with any Cooperative Complaint Manager. The Complainant shall not be required to file a complaint with a particular Complaint Manager and may request a Complaint Manager of the same gender. The Complaint Manager may request the Complainant to provide a written statement regarding the nature of the complaint or require a meeting with a student's parent(s)/guardian(s). The Complaint Manager shall assist the Complainant as needed.

For bullying and cyber-bullying, the Complaint Manager shall process and review the complaint according to Board policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*, in addition to any response required by this policy.

Investigation

The Complaint Manager will investigate the complaint or appoint a qualified person to undertake the investigation on his or her behalf. The Complaint Manager shall ensure both parties have an equal opportunity to present evidence during an investigation. If the Complainant is a student under 18 years of age, the Complaint Manager will notify his or her parent(s)/guardian(s) that they may attend any investigatory meetings in which their child is involved. The complaint and identity of the Complainant will not be disclosed except: (1) as required by law; or this policy, ~~or~~ (2) as necessary to fully investigate the complaint, or (3) as authorized by the Complainant.

The identity of any student witnesses will not be disclosed except: (1) as required by law or any collective bargaining agreement, ~~or~~ (2) as necessary to fully investigate the complaint, or (3) as authorized by the parent/guardian of the student witness, or by the student if the student is 18 years of age or older.

The Complaint Manager will inform, at regular intervals, the person(s) filing a complaint under this ~~procedure-policy~~ about the status of the investigation. Within 30 school business days of the date the complaint was filed, the Complaint Manager shall file a written report of his or her findings with the Executive Director. The Complaint Manager may request an extension of time. If a complaint of sexual harassment contains allegations involving the Executive Director, the written report shall be filed with the Board, which will make a decision in accordance with the following section of this policy. The Executive Director will keep the Board informed of all complaints.

Decision and Appeal

Within ~~5-five~~ school business days after receiving the Complaint Manager's report, the Executive Director shall mail his or her written decision to the Complainant and the accused by first class U.S. mail with a copy to the Complaint Manager. All decisions shall be based upon the *preponderance of evidence* standard.

Within 10 school business days after receiving the Executive Director's decision, the Complainant or the accused may appeal the decision to the Board by making a written request to the Complaint Manager. The Complaint Manager shall promptly forward all materials relative to the complaint and appeal to the Board. Within 30 school business days, the Board shall affirm, reverse, or amend the Executive Director's decision or direct the Executive Director to gather additional information. Within ~~5-five~~ school business days of the Board's decision, the Executive Director shall inform the

DRAFT UPDATE

Complainant and the accused and parent if applicable, the child's parent or guardian if under the age of 18, of the Board's action

This ~~policy/grievance procedure~~ shall not be construed to create an independent right to a hearing before the Executive Director or Board. The failure to strictly follow the timelines in this grievance procedure shall not prejudice any party.

Appointing a Nondiscrimination Coordinator and Complaint Managers

The Executive Director shall appoint a Nondiscrimination Coordinator to manage the Cooperative's efforts to provide equal opportunity employment and educational opportunities and prohibit the harassment of employees, students, and others. The Nondiscrimination Coordinator also serves as the District's Title IX Coordinator.

The Executive Director shall appoint at least one Complaint Manager to administer the complaint process in this policy. If possible, the Executive Director will appoint ~~2-4~~ two Complaint Managers, one of each gender. The Cooperative's Nondiscrimination Coordinator may be appointed as one of the Complaint Managers.

The Executive Director shall insert into this policy and keep current the names, addresses, and telephone numbers of the Nondiscrimination Coordinator and the Complaint Managers.

Nondiscrimination Coordinator:

Nancy Sporer

Name

1304 Ronzheimer Ave., St. Charles, IL 60174

Address

nancy.sporer@d303.org

Email

331-228-4928

Telephone

Complaint Managers:

Nancy Sporer

Name

1304 Ronzheimer Ave., St. Charles, IL 60174

Address

nancy.sporer@d303.org

Email

331-228-4928

Telephone

Timothy Stoudt

Name

1304 Ronzheimer Ave., St. Charles, IL 60174

Address

Timothy.Stoudt@d303.org

Email

331-228-6034

Telephone

Commented [APowell4]: While the names and contact information are required by law to be listed in policy, they are not part of the adopted policy and do not require board action. This allows for additions and amendments to the names and contact information when necessary. It is important for updated names and contact information to be inserted into this policy and regularly monitored. Best practice is that throughout the district's board policy manual, the same individual be named as Nondiscrimination Coordinator. In contrast, Complaint Managers identified in individual policies may vary depending upon local district needs. Please indicate your current Nondiscrimination Coordinator and Complaint Manager information on your PRESS Plus Response Form, attaching additional pages if necessary.

Issue 96, October 2017

Commented [AP5]: Publicizing the contact information for the Nondiscrimination Coordinator and Complaint Managers through personnel handbooks, student handbooks, and/or on the district's website is a best practice.

OPTION: The board may add the following sentence to address publication of such contact information:
"The Superintendent or designee shall ensure that students, parents/guardians, employees, and members of the community are informed of the contact information for the District's Nondiscrimination Coordinator and Complaint Managers on an annual basis."

Issue 96, October 2017

DRAFT UPDATE

LEGAL REF.: Age Discrimination in Employment Act, 29 U.S.C. §621 et seq.
Americans With Disabilities Act, 42 U.S.C. §12101 et seq.
Equal Employment Opportunities Act (Title VII of the Civil Rights Act), 42 U.S.C. §2000e et seq.
Equal Pay Act, 29 U.S.C. §206(d).
Genetic Information Nondiscrimination Act, 42 U.S.C. §2000ff et seq.
Immigration Reform and Control Act, 8 U.S.C. §1324a et seq.
McKinney-Vento Homeless Assistance Act, 42 U.S.C. §11431 et seq.
Rehabilitation Act of 1973, 29 U.S.C. §791 et seq.
Title VI of the Civil Rights Act, 42 U.S.C. §2000d et seq.
Title IX of the Education Amendments, 20 U.S.C. §1681 et seq.
105 ILCS 5/2-3.8, 5/3-10, 5/10-20.7a, 5/10-20.60 (P.A. 100-29, final citation pending), 5/10-22.5, 5/22-19, 5/24-4, 5/27-1, 5/27-23.7, and 45/1-15.
Illinois Genetic Information Privacy Act, 410 ILCS 513/.
Illinois Whistleblower Act, 740 ILCS 174/.
Illinois Human Rights Act, 775 ILCS 5/.
Victims' Economic Security and Safety Act, 820 ILCS 180/, 56 Ill.Admin.Code Part 280.
Equal Pay Act of 2003, 820 ILCS 112/.
Employee Credit Privacy Act, 820 ILCS 70/.
23 Ill.Admin.Code §§1.240 and 200.40.

CROSS REF.: 5:10 (Equal Employment Opportunity and Minority Recruitment), 5:20 (Workplace Harassment Prohibited), 5:30 (Hiring Process and Criteria), 6:120 (Education of Children with Disabilities), 6:140 (Education of Homeless Children), 6:170 (Title I Programs), 6:260 (Complaints About Curriculum, Instructional Materials, and Programs), 7:10 (Equal Educational Opportunities), 7:20 (Harassment of Students Prohibited), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 8:70 (Accommodating Individuals with Disabilities), 8:110 (Public Suggestions and Complaints)

ADOPTED: November 4, 2015