

## **KN Complaints (See BCBI, GAACA, GAAB, IF, IKD and JCE)**

Except as otherwise provided by Board policy or negotiated agreement, all complaints concerning the district, its board member, employees, volunteers, agents or students will be governed by this policy.

Any complaint received should be reduced to writing and reported to administration for study, investigation and possible resolution. Whenever possible, complaints should be resolved at the lowest possible administrative level. Any employee who receives a complaint shall inform the individual making the complaint of the employee's obligation to report the complaint to the administration. Whenever a complaint is made directly to the board as a whole or to a board member as an individual, it will be referred to the administration for study, investigation and possible resolution. If the complaint is against the superintendent or a board member, an investigating officer will be appointed. All other complaints will be investigated by the superintendent or ~~his~~ designee. **In any case where there is a conflict of interest, an investigative officer will be appointed.**

Administration will initially meet with the individual making the complaint to determine the nature of the complaint and whether it can be informally resolved. Any informal resolution will be documented and, within 20 days after the complaint is resolved, administration will contact the complainant to determine if the resolution of the matter remains acceptable. If the matter cannot be resolved informally or if an informal resolution later becomes unacceptable, the individual may initiate a formal complaint.

Formal complaints must be in writing and contain the name and contact information of the individual making the complaint. Unless otherwise provided by Board policy or negotiated agreement, a formal complaint should be filed within thirty (30) days after the conduct occurs. Both the individual making the complaint and the individual about whom the complaint is made will be afforded an opportunity to provide evidence relevant to the complaint. A written determination of the complaint's validity and a description of the resolution should be issued by the investigator no later than thirty (30) days after the filing of the complaint. This period may be extended by the investigator. Unless otherwise provided by Board policy or negotiated agreement, the investigator's determination is final.

Retaliation against any individual making any complaint or participating in an investigation under this Policy is strictly prohibited. False or malicious complaints concerning a student or employee may result in corrective or disciplinary action against the complainant.

## **Complaints Involving Discrimination, Harassment, Bullying or Retaliation (See AH, GAAA, GAAB, GAAC, GAACA, GAAE, JDDC, JGEC, JGECA and KGC)**

### **Definition of Discrimination, Harassment, Bullying and Retaliation**

**Protected Class:** An individual's race, color, ethnicity, national origin, religion, sex/gender (to include orientation, identity or expression), age, disability, genetic information or any other basis prohibited by law.

**Discrimination:** Unequal, adverse, or negative treatment, including harassment, of a person or class of persons based on one or more protected classifications that denies or limits the person's ability to obtain educational benefits or that interferes with the educational or work environment.

Conduct that could constitute prohibited discrimination includes, but is not limited to, the following if based on a protected class: unequal treatment in regard to the terms and conditions of employment (e.g., hiring, firing, compensation, benefits, assignment, transfer, recall, layoff or RIF, recruitment, testing, access to facilities and programs, training, etc.); unequal treatment in terms of educational programs or opportunities (e.g., discipline, grading, class assignments, testing, internships, access

to facilities, admission to programs, etc.); employment or academic decisions based on stereotypes or assumptions about a person's abilities, traits, or performance.

**Harassment:** A form of discrimination; any unwelcome verbal, written, physical, or other conduct toward a person or class of persons based on a protected class that is sufficiently severe, pervasive, and/or persistent that it unreasonably interferes with, or deprives the person from participating in or benefiting from the District's education or employment programs and/or activities.

Conduct that could constitute prohibited harassment includes, but is not limited to, the following if based upon a protected class: slurs; derogatory stereotypes or remarks; name-calling or insults, including name-calling or insults about personal appearance or hair; teasing or taunting; derogatory jokes; derogatory gestures; display of derogatory drawings, graffiti, pictures, symbols or other written material; threats or intimidating conduct; hostile action or physical acts of aggression or violence; theft or damage to property. A single sufficiently serious act, such as an act of physical violence or quid pro quo, can amount to harassment if the act is based on a protected class.

**Sexual Harassment:** A form of harassment based on sex/gender (to include orientation, identity or expression) involving unwelcome conduct of a sexual nature.

Behaviors that could constitute prohibited sexual harassment include: conditioning the provision of an aid, benefit, or service on a person's participation in unwelcome sexual conduct (quid pro quo); punishing or reprimanding persons who refuse to comply with sexual requests, activities, or contact; sexual violence, including but not limited to sexual assault, unwanted sexual contact, or sexual coercion perpetrated against a person's will or where a person is incapable of giving consent; stalking; physical contact or touching of a sexual nature, including touching of intimate parts and sexually-motivated or inappropriate patting, pinching or rubbing; sexual advances and requests or pressure of any kind for sexual favors, activities, or contact; name-calling, slurs, jokes, gestures or communications of a sexual nature or based on sex; comments about an individual's body, sexual activity or sexual attractiveness. Sexual harassment may occur between persons of the same or opposite sex. Any conduct of a sexual nature directed by an employee toward a student is presumed to be unwelcome.

**Bullying:** (A) Any intentional gesture or any intentional written, verbal, electronic or physical act or threat either by any student, staff member or parent towards a student or by any student, staff member or parent towards a staff member that is sufficiently severe, persistent or pervasive that such gesture, act or threat creates an intimidating, threatening or abusive educational environment that a reasonable person, under the circumstances, knows or should know will have the effect of:

- (i) Harming a student or staff member, whether physically or mentally;
- (ii) damaging a student's or staff member's property;
- (iii) placing a student or staff member in reasonable fear of harm to the student or staff member; or
- (iv) placing a student or staff member in reasonable fear of damage to the student's or staff member's property;

(B) cyberbullying; or

(C) any other form of intimidation or harassment prohibited by the board of education of the school district in policies concerning bullying adopted pursuant to this section or subsection (e) of K.S.A. 72-1138, and amendments thereto.

**Cyberbullying:** Bullying by use of any electronic communication device through means including, but not limited to, e-mail, instant messaging, text messages, blogs, mobile phones, pagers, online games and websites.

Retaliation: Intimidation, threats, coercion, or discrimination against a person based on the person engaging in a protected activity.

Protected Activity: Making a complaint of prohibited discrimination or harassment, reporting prohibited discrimination or harassment, or participating in an investigation, formal proceeding or informal resolution, whether conducted internally or outside the District, concerning prohibited discrimination or harassment.

### **Reporting Responsibility**

All District employees share in the responsibility of preventing and responding to discrimination, harassment, bullying and retaliation. All employees who personally observe conduct that could constitute discrimination, harassment, or retaliation, or who are notified about an allegation of discrimination, harassment, or retaliation, or about conduct or events reasonably suggesting that such conduct has occurred, are required to immediately report the conduct to their immediate supervisor, the Compliance Coordinator or the Superintendent. The Compliance Coordinator will be advised of all formal complaints. Additionally, employees who observe discrimination, harassment, or retaliation are expected to intervene to stop the conduct in situations in which they have supervisory control and it is safe to do so.

Some conduct qualifying as discrimination, harassment, bullying or retaliation, particularly conduct involving physical or sexual violence, may also qualify as child abuse or neglect and/or a crime. Before taking any action related to this policy, an employee should determine whether there is reasonable cause to suspect that child abuse or neglect has occurred, triggering the employee's mandatory reporting obligation under Policy GAAD. The employee also should determine whether they have reason to believe that the conduct constituted the commission of a felony or misdemeanor, involved the possession of a weapon or drugs, or resulted in or was substantially likely to have resulted in serious bodily injury to others, triggering the employee's duty to report the conduct to law enforcement under Policies EBC and JDDB.

If at any point during a complaint investigation an employee has reasonable suspicion that the underlying conduct involved child abuse or neglect, the employee is required to immediately contact the Department for Children and Families (DCF). (See GAAD) If at any point during a complaint investigation an employee has reason to believe that the underlying conduct involved the commission of a crime the employee is required to immediately contact law enforcement officials or ensure that a building principal or district administrator has contacted law enforcement.

District employees who fail to meet these reporting requirements will be subject to discipline, up to and including termination, but in no event will a victim be disciplined for failing to make a report.

All students, parents, visitors, community members, contractors, and others should immediately report any conduct that could constitute discrimination, harassment, or retaliation to the Compliance Coordinator, or to any District employee with whom they are comfortable discussing the conduct.

### **For All Reports of Alleged Discrimination**

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## **Complaint Process – Definitions**

**Prohibited Conduct:** Discrimination, harassment (including sexual harassment), bullying or retaliation as defined above; aiding, abetting, inciting, compelling, or coercing discrimination, harassment, bullying or retaliatory actions; discrimination, harassment, bullying or retaliation against any person because of their association with a person protected from such conduct in accordance with this policy.

**Complainant:** Any person who is participating in or attempting to participate in the District's education or employment programs and/or activities and who is alleged to be the victim of conduct that could constitute prohibited conduct.

**Formal Complaint:** A document filed by or on behalf of a complainant alleging prohibited conduct, or a document signed by the Compliance Coordinator setting forth a report of alleged prohibited conduct

Where a complainant is unable for any reason to file a complaint, for example due to age or disability, a complaint may be filed by a parent, guardian, or representative on behalf of the complainant.

**Respondent:** A person who has been reported to be the perpetrator of conduct that could constitute prohibited conduct.

**Party/Parties:** All complainant(s) and respondent(s) involved in a formal complaint; formal complaints may involve multiple complainants and/or respondents.

**Supportive Measures:** Non-disciplinary, non-punitive, individualized services offered as appropriate, as reasonably available, and without fee or charge to a complainant or respondent before or after the filing of a formal complaint or where no formal complaint has been filed, which are designed to restore or preserve equal access to education or employment programs and/or activities without unreasonably burdening the other party, including measures designed to protect the safety of parties or the educational/work environment or to deter prohibited conduct.

The range of supportive measures for students include, but are not limited to: separating or restricting contact between the parties; altering class schedules, passing periods, or class seating arrangements; offering counseling, social emotional programming or other supportive resources; providing additional supervision or monitoring for a student; placing an employee-respondent on leave during the pendency of an investigation; and assisting with filing criminal charges.

The range of supportive measures for employees include, but are not limited to: separating or restricting contact between the parties; altering duties, work schedules, or work locations; placing an employee/respondent on leave during the pendency of an investigation; and assistance with filing criminal charges.

**Working Days:** Days on which the District's business offices are open.

**Investigator:** The District administrator designated to investigate a formal complaint.

For formal complaints alleging student-on-student prohibited conduct, the building principal, assistant principal, athletic director, or other administrator will be the designated investigator.

For formal complaints alleging student-on-staff prohibited conduct, a building principal or administrator from a school building that the student does not attend will be the designated investigator.

For formal complaints alleging staff-on-staff prohibited conduct, staff-on-student prohibited conduct, and all other formal complaints, the Human Resources Director or designee will be the designated investigator.

**Decision-Maker:** The District administrator designated to issue a decision regarding an investigation conducted into a formal complaint implicating Title IX.

For formal complaints against student-respondents implicating Title IX, the designated decision-maker will be the Superintendent or designee.

For formal complaints against staff-respondents implicating Title IX and all other formal complaints implicating Title IX, the designated decision-maker will be the Superintendent or designee.

**Remedy:** Prompt, effective, and appropriate action taken to restore or preserve equal access to education or employment programs and/or activities that is taken with the goal of preventing future recurrence of prohibited conduct and redressing the effects of prohibited conduct.

Remedies may have educational, restorative, rehabilitative, and/or punitive components. Remedies may include, but are not limited to: the same services provided as supportive measures; follow-up contact with a complainant; disciplinary sanctions or consequences against the respondent; additional training for students and/or employees; and data reviews, assessments, or climate checks to ensure compliance with this policy.

**Appeal Officer:** The District administrator assigned to issue a decision regarding appeal of an investigation determination.

For all formal complaints, the appeal officer will be the Superintendent or designee.

### **Complaint Process - Overview**

The protections of this policy apply to all students, employees, parents, and visitors to District property or District sponsored activities or events. The District will investigate and address alleged prohibited conduct regardless of where it occurs.

When a party is a student under 18 years old, all written notifications provided pursuant to this policy will be directed to the student's parents/guardians.

The complaint process may be temporarily delayed and/or timelines may be extended for good cause with written notice to the parties explaining the reason(s) for the action.

### **Effect of Law Enforcement Investigation**

When a Compliance Coordinator, investigator, decision-maker, or appeal officer reasonably believes that a law enforcement investigation will commence, they may, but are not required to, temporarily suspend the complaint process and investigative efforts, but will continue

supportive measures as appropriate. The internal investigation during a pending law enforcement investigation may continue when appropriate or necessary due to: requirements under state or federal law including student due process rights related to discipline; delay in the law enforcement investigation; and/or exceptional circumstances. As soon as the District becomes aware that the law enforcement investigation has concluded, the complaint process will resume. A finding by law enforcement that no wrongdoing occurred will not determine the outcome of the District's investigation but will be considered along with the other evidence.

In the event that any person involved in an investigation has a concern that the designated investigator, decisionmaker, or appeal officer may have a bias or conflict of interest, or for any other reason, the Compliance Coordinator will evaluate the situation and determine in their sole discretion whether to designate a different internal investigator, decision-maker, or appeal officer. In their sole discretion, the Compliance Coordinator may choose to retain an outside investigator, decision-maker, or appeal officer.

At any time during the complaint process before a determination is reached, the parties may be offered or request an informal resolution process, such as mediation or restorative justice, in lieu of a full investigation and determination, but in no event will informal resolution be facilitated to resolve a complaint of staff-on-student sexual harassment. In order for informal resolution processes to be implemented, all parties must voluntarily agree in writing. In the event that a resolution is reached during the informal resolution process and agreed to in writing by the parties, then the formal complaint will be dismissed, and the complainant is precluded from filing a second complaint concerning the original allegation, however, patterns of conduct will be considered in subsequent complaints involving the same respondent. At any time prior to agreeing to a resolution, any party may withdraw from the informal resolution process and resume the complaint process.

At any time, whether or not a complainant files a formal complaint under this policy, a complainant may file a complaint with the U.S. Department of Education Office for Civil Rights (OCR), the U.S. Equal Employment Opportunity Commission (EEOC), the U.S. Department of Agriculture (USDA) Office of the Assistant Secretary for Civil Rights, the U.S. Department of Justice, the Kansas Human Rights Commission (KHRC), DCF, law enforcement and/or any other appropriate agency. To the extent permitted by law, the District will investigate all formal complaints, even if an outside agency or law enforcement is also investigating a complaint arising from the same circumstances.

In determining whether prohibited conduct occurred, an objective evaluation of all relevant evidence will be made and the following will be considered: the surrounding circumstances; the nature of the conduct; the relationships between the parties involved; past incidents; and the context in which the alleged incidents occurred. Investigations begin with presumptions that the respondent did not engage in any prohibited conduct, and that the complainant is credible. A determination that this policy has been violated and credibility determinations will only be made at the conclusion of an investigation. In no event will past sexual behavior of a complainant be considered, except in the limited circumstance where the evidence is offered to prove consent or that someone other than the respondent committed the alleged misconduct.

If, at the conclusion of an investigation, a determination is made that prohibited conduct occurred, the District will institute appropriate remedies, including appropriate disciplinary sanctions or consequences against the respondent.

Students who violate this policy will be subject to discipline, which may include detention, loss of a privilege, parent and/or student conference, an alternative disposition agreement, in-school suspension, out-of-school suspension with or without probation, and expulsion with or without probation. Students are subject to discipline for prohibited conduct that occurs off District property or outside of a District-sponsored activity or event if the conduct interferes with a student's

educational opportunities, or substantially disrupts the orderly operations of the District, a school, a classroom, or a District-sponsored activity or event.

Employees who violate this policy will be subject to discipline, which may include a conference, written reprimand, required training or other measures, reassignment, unpaid leave, and termination.

Parents, visitors, community members, contractors or others who violate this policy may be prohibited from District property or otherwise restricted while on District property.

Students, employees, and others will not be disciplined for speech in circumstances where it is protected by law, but other non-disciplinary remedies may be instituted to address prohibited conduct.

### **Complaint Process - Steps**

#### **1. Compliance Coordinator or Designee Offers Supportive Measures**

Upon receiving notice of conduct that could constitute prohibited conduct, the Compliance Coordinator or designee will promptly contact the complainant in a confidential manner to discuss the availability of supportive measures and to explain the process for filing a formal complaint.

#### **2. Filing a Formal Complaint**

A complainant may file a formal complaint by submitting the complaint in person, by mail, by telephone, or by e-mail to the Compliance Coordinator or designee. If a verbal report of prohibited conduct is made, the complainant will be asked to submit a written complaint. If a complainant refuses or is unable to submit a written complaint, the Compliance Coordinator or other District employee to whom the report was made will summarize the verbal complaint in writing and sign the summary.

If a complainant does not file a formal complaint, the Compliance Coordinator in their sole discretion may sign a formal complaint and initiate the complaint process. The Compliance Coordinator will initiate the complaint process over the wishes of the complainant only where such action is not clearly unreasonable in light of the known circumstances.

A complaint should be filed immediately after alleged prohibited conduct occurs and as soon as possible in order to ensure the best possible investigation. Delay in filing can result in an impaired investigation due to lack of sufficient evidence and a compromised ability to rely on recollections of parties and witnesses.

#### **3. Investigation by Designated Investigator**

The designated investigator will interview the complainant, witnesses, and the respondent and review relevant records. District employees and students are required to fully participate in investigations, but in no event will a complainant be subjected to any disciplinary sanctions or consequences for refusing or failing to participate.

Within 30 working days of receiving the formal complaint, the investigator will conclude the investigation and create a report that summarizes the relevant evidence. For all complaints other than complaints implicating Title IX: (a) the report also will include the investigator's

determination as to whether the preponderance of the evidence shows that this policy was violated; (b) the investigator will give written notice to the parties of the investigator's determination; and (c) the investigator's determination is final, unless a timely appeal is filed.

### 3a. Additional Investigation Steps for Formal Complaints Implicating Title IX

Upon receiving a formal complaint and before beginning their investigation, the designated investigator will send written notice to the parties of the allegations, including the identities of the parties involved, the alleged prohibited conduct, and the date and location of the alleged incident. Within 20 working days of receiving the formal complaint, the investigator will gather all relevant evidence and, as appropriate, provide the parties with copies of the evidence gathered. The parties will have 10 working days to inspect, review, and respond to the evidence.

Once the investigator's report summarizing the relevant evidence is completed, the investigator simultaneously will send the report to: (a) parties for their review and written response; and (b) the decision-maker. The parties will have 10 working days to submit a response to the investigator's report, including proposed relevant questions for the decision-maker to ask the other party and/or any witnesses. In their sole discretion, the decision-maker may re-interview parties and/or witnesses to ask follow-up questions.

The decision-maker will review the investigation, including any of the following steps: review of the evidence gathered and investigation report, re-interviewing a party or witness, and gathering additional evidence if deemed necessary.

No later than 20 working days after receipt of the investigator's report, the decision-maker simultaneously will issue to the parties a written determination as to whether the preponderance of the evidence shows that this policy was violated. The written determination to each party will include the following information as appropriate: identification of the allegations, a description of the procedural steps taken, findings of fact, conclusion regarding application of the student discipline code or policies/procedures applicable to employees to the facts, a concise statement of the rationale supporting the conclusion on each allegation, any disciplinary sanctions imposed on the respondent, what remedies will be instituted, and notice of the appeal procedure. The decision-maker's determination is final, unless a timely appeal is filed.

## 4. Appeal

No later than 20 working days after the issuance of a determination, a party may appeal the determination due to the following reasons only: procedural irregularity that affected the determination, new evidence that was not reasonably available at the time the determination was made, or conflict of interest or bias on behalf of the Compliance Coordinator, investigator, or decision-maker.

Upon receipt of appeal, the appeal officer will issue written confirmation to the parties that the appeal was received. In their sole discretion, the appeal officer's review of the investigation may include any of the following steps: review of the evidence gathered and written reports and determinations, re-interviewing a party or witness, and gathering additional evidence if deemed necessary. No later than 20 working days after receiving notice of the appeal, the appeal officer simultaneously will issue to the parties a written decision describing the result of the appeal and a concise rationale for the result. The appeal officer's decision is final.

## Confidentiality and Retention of Investigation Information and Records

Except as necessary to complete a thorough and effective investigation and complaint process under this policy and as required by law or Board policy, the identity of complainants, respondents, and witnesses, information related to investigations, evidence gathered, and records created during investigations will be maintained in strict confidence.

In implementing this policy, the District will comply with state and federal laws regarding the confidentiality of student and employee records. Information and records regarding any disciplinary sanctions imposed on an employee or student will be maintained and disclosed in the same manner as any other disciplinary record.

The Compliance Coordinator will retain investigation files for a time period of no less than 10 years, and investigation determination notices will be permanently retained in individual employee and student files. Where a charge or civil action alleging discrimination, harassment, bullying or retaliation has been filed, all relevant records will be retained until final disposition of the matter.

#### **Complaints About Policy**

The superintendent shall report any unresolved complaint about policies to the board at the next regularly scheduled board meeting.

#### **Complaints About Curriculum (See IF)**

The superintendent shall report a failure to resolve any complaint about curriculum to the board at the next regularly scheduled board meeting.

#### **Complaints About Instructional Materials**

The building principal shall report any unresolved complaint about instructional materials to the superintendent immediately after receiving the complaint.

#### **Complaints About Facilities and Services**

The superintendent shall report any unresolved complaint about facilities and services to the board at the next regularly scheduled board meeting.

#### **Complaints About Emergency Safety Intervention Use**

Complaints concerning the use of emergency safety interventions by district staff shall be addressed in accordance with the local dispute resolution process outlined in board policy GAAF.

#### **Training**

The District will provide annual training to employees and students on identifying and reporting acts that may constitute discrimination, harassment, bullying or retaliation, to specifically include the complaint process outlined in this Policy.

#### **Public Notice of Policy**

The District continuously will publicize notice of this policy, including information on how to report discrimination, harassment, bullying and retaliation and the name and contact information for the Compliance Coordinator.

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