

## **Nondiscrimination/Equal Opportunity Regulation: Complaint and Compliance Process**

Mapleton Public Schools is committed to providing a working and learning environment that is free from unlawful discrimination and harassment. The District shall promptly respond to concerns and complaints of unlawful discrimination and/or harassment; take action in response when unlawful discrimination and/or harassment is discovered; impose appropriate sanctions on offenders in a case-by-case manner; and protect the privacy of all those involved in unlawful discrimination and/or harassment complaints as required by state and federal law. When appropriate, the complaint shall be referred to law enforcement for investigation.

The District has adopted the following procedures to promptly and fairly address concerns and complaints about unlawful discrimination and/or harassment. Complaints may be submitted-orally or in writing.

### Definitions

1. “Compliance officer” means an employee designated by the Superintendent to receive complaints of alleged unlawful discrimination and harassment. The compliance officer shall be identified by name/title, address, telephone number and email address. See exhibit AC-E1. If the designated individual is not qualified or is unable to act as such, the Superintendent shall designate an administrator who shall serve until a successor is appointed.
2. “Aggrieved individual” shall mean a student, the parents or guardians of a student under the age of 18 acting on behalf of a student, an employee of the District, or member of the public who is directly affected by and/or is witness to an alleged violation of Board policies prohibiting unlawful discrimination or harassment.

### **Compliance Officer’s Duties**

The compliance officer shall be responsible for conducting an investigation and coordinating all complaint procedures and processes for any alleged violation of federal or state statute or District policy prohibiting unlawful discrimination or harassment. The compliance officer’s duties shall include providing notice to students, parents/guardians of students, employees, and the general public concerning the compliance process, providing training for District staff regarding the prohibition of discrimination/harassment in all District programs, activities and employment practices, disseminating information concerning the forms and procedures for the filing of complaints, ensuring the prompt investigation of all complaints, coordinating hearing procedures, and identifying and addressing any patterns or systemic problems that arise during the review of complaints. The compliance officer may delegate any or all of the foregoing responsibilities as necessary and/or appropriate under the circumstances.

## **Complaint Procedure**

An aggrieved individual is encouraged to promptly report the incident as provided in District policy and this regulation. All reports received by teachers, counselors, school directors or other District employees shall be promptly forwarded to the compliance officer. If the compliance officer is the individual alleged to have engaged in the prohibited conduct, the complaint shall be forwarded to the Superintendent.

Any aggrieved individual may file, with the compliance officer, a complaint charging the District, another student, or any school employee with unlawful discrimination or harassment. Complaints may be made orally or in writing. Persons who wish to file a written complaint shall be encouraged to use the form, AC-E2.

All complaints shall include a detailed description of the alleged events, the dates the alleged events occurred and names of the parties involved, including any witnesses. The complaint shall be made as soon as possible after the incident.

The compliance officer shall confer with the aggrieved individual and/or the alleged victim of the unlawful discrimination or harassment as soon as is reasonably possible, but no later than 10 school days following the District's receipt of the complaint in order to obtain a clear understanding of the basis of the complaint.

Within 10 school days following the initial meeting with the aggrieved individual and/or alleged victim, the compliance officer shall attempt to meet with the individual alleged to have engaged in the prohibited conduct and, if a student, his or her parents/guardians, in order to obtain a response to the complaint. Such person(s) shall be informed of all allegations that, in the compliance officer's judgment, are necessary to achieve a full and accurate disclosure of material information or to otherwise resolve the complaint.

At the initial meetings, the compliance officer shall explain the avenues for informal and formal action, provide a description of the complaint process, and explain that both the victim and the individual alleged to have engaged in prohibited conduct have the right to exit the informal process and request a formal resolution of the matter at any time. The compliance officer shall also explain that whether or not the individual files a written complaint or otherwise requests action, the District is required by law to take steps to correct the unlawful discrimination or harassment and to prevent recurring unlawful discrimination, harassment or retaliation against anyone who makes a report or participates in an investigation. The compliance officer shall also explain that any request for confidentiality shall be honored so long as doing so does not preclude the District from responding effectively to prohibited conduct and preventing future prohibited conduct.

## **Informal Action**

If the aggrieved individual and/or the individual alleged to have engaged in the prohibited conduct requests that the matter be resolved in an informal manner and/or the compliance officer believes that the matter is suitable to such resolution, the compliance officer may attempt to resolve the matter informally through mediation, counseling or other non-disciplinary means. If both parties feel a resolution has been achieved through the informal process, then no further compliance action must be taken. No party shall be

compelled to resolve a complaint of unlawful discrimination or harassment informally and either party may request an end to an informal process at any time. Informal resolution shall not be used to process complaints against a school employee and shall not be used between students where the underlying offense involves sexual assault or other act of violence.

### **Formal Action**

If informal resolution is inappropriate, unavailable, or unsuccessful, the compliance officer shall promptly investigate the allegations to determine whether and/or to what extent, unlawful discrimination or harassment has occurred. The compliance officer may consider the following types of information in determining whether unlawful discrimination or harassment occurred:

- a. statements by any witness to the alleged incident;
- b. evidence about the relative credibility of the parties involved;
- c. evidence relative to whether the individual alleged to have engaged in prohibited conduct has been found to have engaged in prohibited conduct against others;
- d. evidence of the aggrieved individual and/or alleged victim's reaction or change in behavior following the alleged prohibited conduct;
- e. evidence about whether the alleged victim and/or aggrieved individual took action to protest the conduct;
- f. evidence and witness statements or testimony presented by the parties involved;
- g. other contemporaneous evidence, and/or
- h. any other evidence deemed relevant by the compliance officer.

In deciding whether conduct is a violation of law or policy, all relevant circumstances shall be considered by the compliance officer, including:

- a. the degree to which the conduct affected any student's education, or any employee's work environment;
- b. the type, frequency and duration of the conduct;
- c. the identity of and relationship between the individual alleged to have engaged in the prohibited conduct and the aggrieved individual and/or alleged victim;
- d. the number of individuals alleged to have engaged in the prohibited conduct and number of victims of the prohibited conduct;
- e. the age of the individual alleged to have engaged in the prohibited conduct and the aggrieved individual and/or alleged victim;

- f. the size of the school, location of the incident, and the context in which it occurred; and
- g. other incidents at the school.

The compliance officer shall prepare a written report containing findings and recommendations, as appropriate, and submit the report to the Superintendent within 10 school days following the compliance officer's receipt of the complaint or 10 school days following the termination of the informal resolution process. The compliance officer's report shall be advisory and shall not bind the Superintendent or the District to any particular course of action or remedial measure. Within 10 school days after receiving the compliance officer's findings and recommendation, the Superintendent (or designee) shall determine any sanctions or other action deemed appropriate, including, if appropriate, recommendations to the Board for disciplinary or other action.

To the extent permitted by federal or state law, all parties, including the parents/guardians of all students involved, shall be notified in writing by the Superintendent of the final outcome of the investigation and all steps taken by the District within 10 school days following the Superintendent's determination.

### **Hearing Procedure**

For allegations under Section 504 and as otherwise required by law, the aggrieved individual may request a hearing. This hearing procedure will not address guilt or innocence or disciplinary consequences which shall instead be governed by the Board's discipline policies and procedures.

The hearing officer will be an administrative employee of the District designated by the Superintendent. The hearing shall be informal. A student shall be entitled to be represented by his/her parent or by an attorney. An employee shall be entitled to be represented by an attorney or other representative of his/her choice. The complainant may appear at the hearing and shall be entitled to present testimony and other evidence. Formal rules of evidence shall not apply. The compliance officer or designee may represent the District at the hearing and shall likewise be entitled to present testimony and other evidence. The hearing shall be closed to the public.

The hearing officer shall make a written recommendation to the Superintendent based upon evidence presented at the administrative hearing. Within 10 days of receiving the hearing officer's recommendations, the Superintendent or designee shall determine any action deemed appropriate.

Any party not satisfied with a decision made by the Superintendent may present his/her concerns to the School Board. Any action taken by the School Board shall be final.

Nothing contained herein shall be interpreted to confer upon any person the right to a hearing independent of a District policy, administrative procedure, statute, rule, regulation or agreement expressly conferring such right. This process shall apply, unless the context otherwise requires and unless the requirements of another policy, procedure, statute, rule, regulation or agreement expressly contradicts with this process, in which event the terms

of the contrary policy, procedure, law, rule, regulation or agreement shall govern.

### **Outside Agencies**

Complaints regarding violations of Title VI, (race, national origin), Title IX (sex/gender), Section 504/ADA (handicap or disability), may be filed directly with the Office for Civil Rights, U.S. Department of Education, 1244 North Speer Blvd., Suite 310, Denver, CO 80204. Complaints regarding violations of Title VII (employment) and the ADEA (prohibiting age discrimination in employment) may be filed directly with the Federal Office of Equal Employment Opportunity Commission, 303 E. 17th Ave., Suite 510, Denver, CO 80202, or the Colorado Civil Rights Commission, 1560 Broadway, Suite 1050, Denver, CO 80202.

*Adopted January 22, 2013, by the Board of Education for Mapleton Public Schools.*

### LEGAL REFERENCES:

20 U.S.C. §1681 (Title VII, Education Amendments of 1972)  
20 U.S.C. §1701-1758 (Equal Employment Opportunity Act of 1972)  
29 U.S.C. §621 et seq. (Age Discrimination in Employment Act of 1967)  
29 U.S.C. §701 et seq. (Section 504 of the Rehabilitation Act of 1973)  
42 U.S.C. §12101 et seq. (Title II of the Americans with Disabilities Act)  
42 U.S.C. §2000d (Title VI of the Civil Rights Act of 1964, as amended in 1972)  
42 U.S.C. §2000e (Title VII of the Civil Rights Act of 1964)  
42 U.S.C. §2000ff et seq. (Genetic Information Nondiscrimination Act of 2008)  
34 C.F.R. Part 100  
C.R.S. 2-4-401 (13.5) (definition of sexual orientation)  
C.R.S. 18-9-121 (bias-motivated crimes)  
C.R.S. 22-32-109 (1)(II) (Board duty to adopt written policies prohibiting discrimination)  
C.R.S. 24-34-301 (7) (definition of sexual orientation)  
C.R.S. 24-34-301 et seq. (Colorado Civil Rights Division)  
C.R.S. 24-34-401 et seq. (discriminatory or unfair employment practices)  
C.R.S. 24-34-601 (unlawful discrimination in places of public accommodation)  
C.R.S. 24-34-602 (penalty and civil liability for unlawful discrimination)

### CROSS REFERENCES:

GBA: Open Hiring/Equal Employment Opportunity  
GBAA: Sexual Harassment  
JB: Equal Educational Opportunities  
JBB: Sexual Harassment