
AURORA PUBLIC SCHOOLS
Adopted August 1989
Revised January 1996
Recoded September 1996
Revised November 2007
Revised December 2012
Revised June 2014
Revised January 2017

APS Code: AC

NONDISCRIMINATION/EQUAL OPPORTUNITY

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The District is committed to providing a safe learning and work environment where all members of the school community are treated with dignity and respect. The schools in the district are subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, sex, sexual orientation, national origin, religion, ancestry or need for special education services. Accordingly, no otherwise qualified student, employee, applicant for employment or member of the public shall be excluded from participation in, be denied the benefits of, or be subjected to unlawful discrimination under any district program or activity on the basis of race, color, national origin, ancestry, creed, religion, sex (which includes marital status), sexual orientation (which includes transgender), disability or need for special education services. Discrimination against employees and applicants for employment based on age, genetic information and conditions related to pregnancy or childbirth is also prohibited in accordance with state and/or federal law.

This policy and regulation shall be used to address all concerns regarding unlawful discrimination and harassment, except those regarding sexual harassment which are addressed in policies GBAA, JBB and discrimination based on disability which is addressed in policy ACE.

Compliance Officer

The District Compliance Officers are Damon Smith, Chief Personnel Officer (employees) or designee and Marcelina Rivera, Chief of Staff (all other complaints) or designee.

Damon Smith, Chief Personnel Officer (employees), 1085 Peoria Street, Aurora, CO 80011, phone : (303) 344-8060, dsmith@aps.k12.co.us, or designee and Marcelina Rivera, Chief of Staff (all other complaints), 15701 East 1st Avenue, Suite 206, Aurora, CO 80011, phone: (303) 344-8060, mrivera@aps.k12.co.us, or designee. 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.

Annual notice

The district shall issue a written notice prior to the beginning of each school year that advises students, parents, employees and the general public that the educational programs, activities and

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employment opportunities offered by the district are offered without regard to race, color, sex (which includes marital status), sexual orientation (which includes transgender), religion, national origin, ancestry, creed, disability or need for special education services. With respect to employment practices, the district shall also issue written notice that it does not discriminate on the basis of age, genetic information or conditions related to pregnancy or childbirth. The announcement shall also include the name/title, address, email address and telephone number of the person designated to coordinate Title IX and Section 504 and ADA compliance activities.

The notice shall appear on a continuing basis in all district media containing general information, including: teachers' guides, school publications, the district's website, recruitment materials, application forms, vacancy announcements, student handbooks, school program notices, summer program newsletters and annual letters to parents.

Harassment is prohibited

Harassment based on a person's race, color, national origin, ancestry, creed, religion, sex (which includes marital status), sexual orientation (which includes transgender), disability or need for special education services is a form of discrimination prohibited by state and federal law. Preventing and remedying such harassment in schools is essential to ensure a nondiscriminatory, safe environment in which students can learn, employees can work and members of the public can access and receive the benefit of district facilities and programs. All such harassment, by district employees, students and third parties, is strictly prohibited.

All district employees and students share the responsibility to ensure that harassment does not occur at any district school, on any district property, at any district or school-sanctioned activity or event, or off school property when such conduct has a nexus to the school, or any district curricular or non-curricular activity or event.

For purposes of this policy, harassment is any unwelcome, hostile and offensive verbal, written or physical conduct based on or directed at a person's race, color, national origin, ancestry, creed, religion, sex, sexual orientation (which includes transgender), disability or need for special education services that: (1) results in physical, emotional or mental harm, or damage to property; (2) is sufficiently severe, persistent, or pervasive that it interferes with an individual's

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ability to participate in or benefit from an educational program or activity or creates an intimidating, hostile or threatening environment; or (3) substantially disrupts the orderly operation of the school. Board policy on sexual harassment (GBAA for employees and JBB for students) will apply to complaints alleging sexual harassment.

Harassing conduct may take many forms, including but not limited to:

1. verbal acts and name-calling;
2. graphic depictions and written statements, which may include use of cell phones or the Internet;
3. other conduct that may be physically threatening, harmful or humiliating.

Reporting unlawful discrimination and harassment

Any student who believes he or she has been a victim of unlawful discrimination or harassment as defined in Board policy, or who has witnessed such unlawful discrimination or harassment, shall immediately report it to an administrator, counselor, teacher or the district's compliance officer and file a complaint as set forth in the regulation which accompanies this policy.

Any employee, applicant for employment or member of the public who believes he or she has been a victim of unlawful discrimination or harassment, or who has witnessed such unlawful discrimination or harassment, shall file a complaint with either an immediate supervisor or the district's compliance officer as set forth in the regulation which accompanies this policy.

If the individual alleged to have engaged in prohibited conduct is the person designated as the compliance officer, the complaint shall be made to the superintendent who shall designate an alternate compliance officer to investigate the matter.

District action

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All district employees who witness unlawful discrimination or harassment shall take prompt and effective action to stop it, as prescribed by the district.

The district shall take appropriate action to promptly and impartially investigate allegations of unlawful discrimination and harassment, to end unlawful behavior, to prevent the recurrence of such behavior and to prevent retaliation against the individual(s) who files the complaint and/or any person who participates in the investigation. When appropriate, the district shall take interim measures during the investigation to protect against further unlawful discrimination, harassment or retaliation.

To the extent possible, all reports of unlawful discrimination or harassment will be kept confidential. Students or employees who knowingly file false complaints or give false statements in an investigation shall be subject to discipline, up to and including suspension/expulsion for students and termination of employment. No student, employee or member of the public shall be subject to adverse treatment in retaliation for any good faith report of harassment under this policy.

Upon determining that incidents of unlawful discrimination or harassment are occurring in particular district settings or activities, the district shall implement measures designed to remedy the problem in those areas or activities.

Any student or employee who engages in unlawful discrimination or harassment shall be disciplined according to applicable Board policies and the district shall take reasonable action to restore lost educational or employment opportunities to the victim(s).

In cases involving potential criminal conduct, the compliance officer shall determine whether appropriate law enforcement officials should be notified. In those cases in which law enforcement is notified, the District shall still retain its obligation to investigate and take appropriate action.

Notice and training

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To reduce unlawful discrimination and harassment and ensure a respectful school environment, the administration is responsible for providing notice of this policy to all district schools and departments. The policy and complaint process shall be referenced in student and employee handbooks and otherwise available to all students, staff and members of the public through electronic or hard-copy distribution.

Students and district employees shall receive periodic training related to recognizing and preventing unlawful discrimination and harassment. District employees shall receive additional training related to handling reports of unlawful discrimination and harassment. The training will include, but not be limited to:

- awareness of groups protected under state and federal law and/or targeted groups;
- how to recognize and react to unlawful discrimination and harassment; and
- proven harassment prevention strategies.

LEGAL REFS.: 20 U.S.C. §1681, Title VII of the 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 through Part 110 (civil rights regulations)
C.R.S. 2-4-401(13.5) (definition of sexual orientation, which includes transgender)
C.R.S. 18-9-121 (bias motivated crimes)

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C.R.S. 22-32-109(1)(11) (Board duty to adopt written policies prohibiting discrimination)
C.R.S. 24-24-301 *et seq.* (Colorado Civil Rights Division)
C.R.S. 24-34-301(7) (definition of sexual orientation, which includes transgender)
C.R.S. 24-34-401 *et seq.* (discriminatory or unfair employment practices)
C.R.S. 24-34-402.3 (discrimination based on pregnancy, childbirth or related conditions; notice of right to be free from such discrimination must be posted “in a conspicuous place” accessible to employees)
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 REF.: ACA, Nondiscrimination on the Basis of Sex
ACE, Nondiscrimination on the Basis of Handicap/Disability
GBA, Hiring/Equal Employment Opportunity
GBAA, Nondiscrimination/Nonharassment of Employees
JBB, Sexual Harassment

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Complaint and Compliance Process

The district 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 Damon Smith, Chief Personnel Officer (employees), 1085 Peoria Street, Aurora, CO 80011, phone : (303) 344-8060, dlsmith@aps.k12.co.us, or designee and Marcelina Rivera, Chief of Staff (all other complaints), 15701 East 1st Avenue, Suite 206, Aurora, CO 80011, phone: (303) 344-8060, mrivera@aps.k12.co.us, or designee. 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 Board 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

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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 Board policy and this regulation. All reports received by teachers, counselors, principals or other district employees shall be promptly forwarded to the appropriate 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 in AC-2-E.

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 five (5) school days following the district's receipt of the complaint in order to obtain a clear understanding of the basis of the complaint.

The District will provide interim measures to address student complaints during the complaint process. Retaliation against any individual for utilizing or participating in the complaint process is prohibited.

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Within five (5) 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

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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. Any party may identify or provide witness or documentary evidence regarding the complaint. 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 one or more student's education or one or more 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,

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- 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 context in which it occurred,
- 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 fifteen (15) days following the compliance officer's receipt of the complaint or fifteen (15) 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 five (5) school days after receiving the compliance officer's findings and recommendation, the superintendent or designee shall determine whether it is more likely than not that a discriminatory act occurred and determine any sanctions or other action deemed appropriate, including but not limited to imposition of disciplinary action up to compensatory services, restitution of lost wages or benefits, and including termination, implementation of training or revision of District policies and/or practices. Action will be taken for the express purpose of remedying any discrimination eliminating the effects of discrimination and preventing its reoccurrence.

All legal citations in the designated coordinator's written report and any subsequent written responses shall be reviewed by legal counsel. A copy of legal decisions including court cases, OCR findings or arbitration decisions relied on in any such report shall be provided to the aggrieved individual or victim. A statement informing the parties of their right to file a complaint with the Office of Civil Rights shall be included in all written determinations.

To the extent permitted by federal and 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 five (5) days following the superintendent's determination.

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Nothing contained herein shall be interpreted to confer upon any person the right to a hearing independent of a Board 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.

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NOTICE OF NONDISCRIMINATION

The Aurora Public Schools is committed to the policy that all persons shall have equal access to its programs, facilities, and employment and does not discriminate on the basis of race, age, color, creed, national origin, sexual orientation (which includes transgender), conditions related to pregnancy or childbirth, disability, religion, ancestry, sex or need for special education services, or genetic information for employment and provides equal access to the Boy Scouts and other designated youth groups. Career and technical education opportunities will be offered without regard to these protected classes. In adhering to this policy, the Aurora Public Schools abides by Title IX of the Education Amendments of 1972, the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act and Titles VI and VII of the Civil Rights Act of 1964.

Questions, complaints or requests for additional information regarding these laws or issues concerning discrimination (including information about how to file a grievance if you believe you are the victim of discrimination) should be directed to the compliance officer for these issues, Damon Smith, Chief Personnel Officer (employees), 1085 Peoria Street, Aurora, CO 80011, phone: (303) 344-8060, dsmith@aps.k12.co.us, or designee and Marcelina Rivera, Chief of Staff (all other complaints), 15701 East 1st Avenue, Suite 206, Aurora, CO 80011, phone: (303) 344-8060, mrivera@aps.k12.co.us, or designee. This notice is available in alternative forms.

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Complaint Form

Date: _____

Name of complainant: _____

School: _____

Address: _____

Phone: _____

Summary of alleged unlawful discrimination or harassment:

Name(s) of individual(s) allegedly engaging in prohibited conduct:

Date(s) alleged prohibited conduct occurred:

Name(s) of witness(es) to alleged prohibited conduct:

If others are affected by the possible unlawful discrimination or harassment, please give their names:

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Your suggestions regarding resolving the complaint: _____

Please describe any corrective action you wish to see taken with regard to the alleged unlawful discrimination or harassment. You may also provide other information relevant to this complaint.

Signature of complainant

Date

Signature of person receiving complaint

Date