

NONDISCRIMINATION/NONHARASSMENT OF EMPLOYEES

Page 1 of 5

The Aurora Public Schools is committed to the policy that no otherwise qualified employee shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any district program or activity on the basis of race, color, religion, creed, national origin, ancestry, genetic information, marital status, gender, age, disability or sexual orientation.

As part of this policy, the district is committed to maintaining a working environment for employees that is free from harassment based on an individual's race, color, religion, creed, national origin, ancestry, genetic information, gender, sexual orientation, age, disability or protected activity (opposition to prohibited discrimination or participation in the statutory complaint process). All such harassment, by district employees, students and third parties, is strictly prohibited. All members of the district community, employees, and students are required to promptly report conduct that could be in violation of this policy.

In addition to the procedures outlined herein, discrimination and harassment complaints may be filed with the U.S. Equal Opportunity Commission; U.S. Department of Education, Office for Civil Rights; or Colorado Civil Rights Commission. Any complaint of harassment filed under the district's policy shall be processed even if the complainant also files a complaint or suit with an outside agency such as the U.S. Equal Employment Opportunity Commission; U.S. Department of Education, Office for Civil Rights; or Colorado Civil Rights Commission. Retaliation against anyone who makes a complaint or participates in the complaint process shall not be tolerated.

The district will (1) respond to every complaint of discrimination or harassment reported; (2) take action in response when discrimination or harassment is discovered; (3) impose appropriate sanctions on offenders in a case-by-case manner; and (4) protect the privacy of all those involved in discrimination or harassment complaints to the extent practical and appropriate under the circumstances. The above actions will apply to the extent permitted by law or where personal safety is not an issue.

Harassment is defined as unwelcome communication including verbal, written, electronic or physical conduct based on race, color, religion, creed, national origin, ancestry, genetic information, gender, sexual orientation, age, disability, or protected activity, that has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive

NONDISCRIMINATION/NONHARASSMENT OF EMPLOYEES

Page 2 of 5

work environment.

Harassment does not include verbal expressions or written material that is relevant and appropriately related to course subject matter or curriculum.

Harassment based on race or color can include unwelcome, hostile and offensive communication including verbal, written, electronic or physical conduct based on or directed at the characteristics of a person's race or color, such as nicknames emphasizing stereotypes, racial slurs, and negative references to racial customs.

Harassment based on religion or creed can include unwelcome, hostile and offensive communication including verbal, written, electronic or physical conduct based on or directed at the characteristics of a person's religion or creed, such as comments regarding surnames, religious tradition or religious clothing, as well as religious slurs and/or graffiti.

Harassment based on national origin or ancestry can include unwelcome, hostile and offensive communication including verbal, written, electronic or physical conduct based on or directed at the characteristics of a person's national origin, such as comments regarding surnames, manner of speaking, customs, language or ethnic slurs.

Harassment based on disability can include unwelcome, hostile and offensive communication including verbal, written, electronic or physical conduct based on or directed at the characteristics of a person's disabling condition, such as imitating manner of speech or movement; hostile or offensive acts; and/or interference with movement or access to necessary equipment.

Harassment based on genetic information can include unwelcome, hostile and offensive communication including verbal, written, electronic or physical conduct based on or directed at the person's genetic information or that of the person's relative(s). Genetic information includes information about a person's genetic tests and the genetic tests of a person's family members, as well as information about the manifestation of a disease or disorder in a person's family members.

Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal

NONDISCRIMINATION/NONHARASSMENT OF EMPLOYEES

Page 3 of 5

or physical conduct of a sexual nature constitute sexual harassment when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or educational experience;
2. Submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individual;
3. Such conduct is sufficiently severe and pervasive so as to alter the conditions of, or have the purpose or effect of substantially interfering with, an individual's work by creating an intimidating, hostile, or offensive working or educational environment.

The definition of sexual harassment applies whether the harassment is between people of the same or different gender. Sexual harassment can include unwelcome communication including verbal, written, electronic or physical conduct, directed at or related to a person's gender, such as sexual gossip or personal comments of a sexual nature, sexually suggestive or foul language, sexual jokes, whistling, spreading rumors or lies of a sexual nature about someone, demanding sexual favors, forcing sexual activity by threat of punishment or offer of educational or employment reward, obscene graffiti, display or sending of pornographic pictures or objects, offensive touching, pinching, grabbing, kissing, or hugging or restraining someone's movement in a sexual way.

Generally, conduct must be unwelcome in order to constitute harassing behavior. However, when behavior is engaged in by a non-student and directed toward a student, the behavior is prohibited whether or not it is welcome. Any sexual contact, sexually related communication or other sexual attention, directed by an employee toward a student is strictly prohibited whether or not the student considers the activity to be welcome or consents to such activity.

REPORTING SUSPECTED DISCRIMINATION AND/OR HARASSMENT

Any employee who believes that he or she may have experienced unlawful discrimination or harassment, or who believes that he or she has observed unlawful discrimination or harassment taking place, shall report this information immediately to his or her immediate supervisor.

NONDISCRIMINATION/NONHARASSMENT OF EMPLOYEES

Page 4 of 5

If the complaint involves the employee's immediate supervisor, the employee may report to the supervisor or administrator at the next level or may report directly to a human resources director. An employee may also request the right to make his or her report of sexual harassment or discrimination to an appropriate level supervisor or administrator of the same sex as the employee. Such request shall be made through the chief personnel officer of human resources or designee. Where the complaint is against the Superintendent of schools, the report may also be made to a member of the Board of Education.

No employee shall be subject to adverse employment action in retaliation for any good faith report of unlawful discrimination or harassment under this policy. To the extent practicable, all reports shall be kept confidential.

The administrator receiving the complaint shall promptly refer the matter to the Division of Human Resources to investigate any report of alleged discrimination or harassment. The allegations will be promptly investigated, if the facts support such a complaint, take prompt action, which may range from a warning or reprimand to dismissal of the offending employee. All employees are, as a condition of employment, required to cooperate fully with the district's investigation, to respond fully and truthfully to all inquiries made of them and to provide a written statement of all pertinent facts when requested.

Where discrimination or harassment is found to have occurred, the victim may be offered counseling where in the opinion of the district, it is appropriate. Where counseling is provided, it shall be paid for by the district. Where counseling is provided, this should not be considered an admission of fault or liability by the district, but rather should be viewed as an indication of the district's desire to provide assistance and support to victims of harassment.

Notice (which may include notice by e-mail) of this policy shall be provided each school year to employees.

(NOTE: This policy governs cases where the perpetrator of discrimination or harassment is an employee. Cases where the perpetrator is a student are governed by policy JBB.)

AURORA PUBLIC SCHOOLS

APS Code: GBAA

Adopted May 1989

Revised March 1999

Revised November 2007

Revised May 2014

NONDISCRIMINATION/NONHARASSMENT OF EMPLOYEES

Page 5 of 5

LEGAL REFS.: Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e et seq.
Title IX of the Education Amendments Act of 1972, 20 U.S.C. 1681
Age Discrimination in Employment Act, 29 U.S.C. 621 et seq.
Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794
Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d
42 U.S.C. §2000ff et seq. (Genetic Information Nondiscrimination Act of 2008)
Age Discrimination Act of 1975, 42 U.S.C. 6101 et seq.
Americans with Disabilities Act, 42 U.S.C. 12101 et seq. C.R.S. 18-9-121
C.R.S. 24-34-401, 402

CROSS REFS.: AC, Nondiscrimination/Equal Opportunity
GDQD, Discipline, Suspension and Dismissal of Classified Employees
JBB, Sexual Harassment

NONDISCRIMINATION AND NONHARASSMENT

Page 1 of 3

The supervisor of an employee must take action if s/he knows of an alleged instance of harassment or discrimination in violation of policy GBAA. This includes harassment or discrimination based on race, color, national origin, gender, religion, creed, ancestry, age, disability, genetic information, marital status or sexual orientation. The person notified or aware of the matter will, after consultation with the appropriate personnel in the Division of Human Resources, take prompt and appropriate action to see that an investigation is conducted and corrective and/or disciplinary action is taken against any employee(s) who have violated this policy. The intent of these procedures is to resolve the situation in a timely manner.

Procedures:

1. School district administration must know of discrimination or harassment before it can attempt to take corrective action. Accordingly, if a person suspects harassment or discrimination, s/he should promptly report it. Employees should not assume that administration is already aware of the situation. They should also not assume that it is someone else's duty to report. The report should be made by contacting the immediate supervisor, building principal, or the chief personnel officer. If the complaint is against the individual's supervisor, s/he is encouraged to contact the director of employee relations or the chief personnel officer, the Superintendent or, if the complaint is against the Superintendent, the president of the Board of Education. The person who receives the complaint will be known as the third party for the purpose of this policy.

The third party should ensure that a description of any alleged violations and of corrective actions taken are documented in writing.

2. If deemed necessary by the Superintendent or the chief personnel officer, a written complaint form may be completed either by the complainant or the third party that will include the following:
 - Complainant's name and address
 - Date(s) of the incident(s)
 - Description of the incident(s)
 - Name(s) of the person(s) involved in the incident(s)

NONDISCRIMINATION AND NONHARASSMENT

Page 2 of 3

- What, if anything, the employee did to indicate to the alleged offender that the conduct was unwelcome
- Name(s) of any witness(es) to the incident(s)
- Requested resolution of the complaint
- Signature of the complainant (will be requested, but not required)

Unless the supervisor is the party accused of harassment, s/he will ordinarily be notified of the general nature of the allegations so as to be in a position to monitor the situation at the worksite as necessary.

3. An investigation will be conducted to allow for the gathering of information regarding the alleged harassment from the complainant, the alleged offender and other appropriate persons. Within twenty (20) business days of meeting with the complainant, the third party or a member of the Division of Human Resources will complete an investigation and render a decision in writing based on the information, to the complainant and the alleged offender. This timeframe may be extended upon notice to all parties if circumstances of the investigation dictate. If the third party is not a member of the Human Resources staff, s/he shall consult with the director of employee relations prior to rendering a decision. To the extent possible, an investigation will be conducted in a confidential manner.
4. If either party does not feel that the decision described in step three is satisfactory, s/he may appeal the decision to the Superintendent of Schools, not later than 10 working days following receipt of the third party's decision. This appeal must include:
 - The original complaint form (if one exists)
 - A copy of the decision from the third party
 - A written statement as to a reason for the appeal

The Superintendent shall have 14 work days to study the information submitted, investigate the circumstances and respond in writing to the appeal. At the discretion of the Superintendent, this appeal process may or may not include a conference with those parties involved. If the complaint is against the Superintendent, the third party shall be

NONDISCRIMINATION AND NONHARASSMENT

Page 3 of 3

the president of the Board of Education and appeal shall be to the Board as a whole. If the Board chooses to have a conference with those involved, it may, at the discretion of the Board, be conducted as a hearing held in executive session pursuant to Board policy GBK-3-E, (Board Review/Appeal Proceedings). The president of the Board of Education may retain outside legal counsel to advise the Board and/or investigate the allegations.

5. If either party is not satisfied with this decision, s/he will have the right to pursue any other remedies provided by law.

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DISCRIMINATION/HARASSMENT COMPLAINT FORM

Page 1 of 2

Name _____

Date _____

Address _____

Date(s) of incident(s) (specify a time period rather than a date, if appropriate; provide evidence in the form of documents, e-mails etc. if they exist)

Describe the incident(s) (include what, if anything, was done to indicate to the alleged offender that the conduct was unwelcome)

Name(s) of person(s) involved in the incident(s)

Name(s) of any witness(es) to incident(s)

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DISCRIMINATION/HARASSMENT COMPLAINT FORM

Page 2 of 2

What resolution of this incident are you requesting?

If necessary, please attach additional pages to provide a complete response.

Signature of person filing complaint