
AURORA PUBLIC SCHOOLS
Adopted August 1989
Revised January 1996
Recoded September 1996
Revised November 2007
Revised December 2012
Revised June 2014
Revised January 2017
Revised September 2019
Revised October 2020

APS Code: AC

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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 discrimination based on disability, which are addressed in policy ACE.

Compliance Officer

The District Compliance Officer is Megan Lonergan or designee.

Megan Lonergan, 15701 East 1st Avenue, Suite 206, Aurora, CO 80011, phone: (303) 365-5823 x28771, malonergan@aurorak12.org, 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 employment opportunities offered by the district are offered without regard to race, color, sex

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(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

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property; (2) is sufficiently severe, persistent, or pervasive that it interferes with an individual's 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.

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 regulations that accompany 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 regulations that accompany 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.

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District action

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.

Except as required under Title IX regulations, all reports of unlawful discrimination or harassment will be kept confidential to the extent possible. 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).

Some conduct qualifying as discrimination or harassment, particularly conduct involving physical or sexual violence, may also qualify as abuse or neglect. Before taking any action related to discrimination or harassment, an employee should determine whether observed or alleged conduct or events create reasonable cause to believe that abuse or neglect has occurred,

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triggering the employee's mandatory reporting obligation under district policy JLF and state law. If at any point during the investigation reasonable cause arises, the employee possessing reasonable cause shall satisfy the employee's mandatory reporting obligation before continuing the investigation. In those cases in which law enforcement is notified, the District shall retain its obligation to investigate and take appropriate action.

Resolution Process

This policy and any applicable regulations are used to address concerns from students, employees, and applicants for employment regarding unlawful discrimination and harassment.

Regulation AC-1-R shall contain the procedure for all investigations of unlawful discrimination and harassment of a student, employee, or applicant for employment, except those regarding sexual harassment regulated by Title IX which are addressed in regulation AC-2-R and discrimination based on disability, which are addressed in district policy ACE.

Regulation AC-2-R shall contain the procedure for all investigation of sexual harassment of a student, employee, or applicant for employment regulated by Title IX.

Notice

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:

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- 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)
 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)

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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.: ACE, Nondiscrimination on the Basis of Handicap/Disability
GBA, Hiring/Equal Employment Opportunity

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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.

This regulation shall be used to address all concerns regarding unlawful discrimination and harassment, except those covered by Title IX, which are addressed in regulation AC-2-R.

Definitions

1. "Compliance officer" means Megan Lonergan, 15701 East 1st Avenue, Suite 206, Aurora, CO 80011, phone: (303) 365-5823 x28771, malonergan@aurorak12.org, 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

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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 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, 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.

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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.

Within five (5) business 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 by students against a school employee

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

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- 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,
- 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 twenty (20) business days following the compliance officer's receipt of the complaint or twenty (20) business days following the termination of the informal resolution process. This timeframe may be extended upon notice to all parties if circumstances dictate. 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.

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Alleged violations of the student Code of Conduct and/or District policies that arise from the same events as the alleged discrimination and/or harassment under this regulation may be investigated and resolved under the processes set forth in this regulation.

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.

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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Introduction

The District (“the District”) is committed to creating and maintaining a learning and working environment that is free from unlawful discrimination based on sex in accordance with Title IX, which prohibits discrimination on the basis of sex in education programs or activities and Title VII, which prohibits sex discrimination in employment. Sexual Harassment and Retaliation under this Policy will not be tolerated by the District and are grounds for disciplinary action, up to and including, permanent dismissal from the District and/or termination of employment.

The District takes all reported sexual misconduct and Sexual Harassment seriously. The District will promptly discipline any individuals within its control who are found responsible for violating this Policy. Additionally, reported sexual misconduct, harassment, and Retaliation that does not meet the definitions and jurisdiction of this policy will be referred for review under the Student or Employee code of conduct.

This Policy applies to Students and Employees as follows:

1. **Students:** Where the Respondent is a Student in the District at the time of the alleged conduct, the alleged conduct includes Sexual Harassment under this Policy, the alleged conduct occurs in the District’s Education Program and Activity, the alleged conduct occurs against a person in the United States, and the Complainant is participating in or attempting to participate in the District’s Education Program or Activity.
2. **Employees:** Where the Respondent is an Employee in the District at the time of the alleged conduct, where the alleged conduct includes Sexual Harassment under this Policy, the alleged conduct occurs in the District’s Education Program and Activity, the alleged conduct occurs against a person in the United States, and the Complainant is participating in or attempting to participate in the District’s Education Program or Activity.

Definition of Sexual Harassment

“Sexual Harassment” means conduct on the basis of sex that satisfies one or more of the following:

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- an Employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;
- unwelcome conduct determined by a Reasonable Person to be so severe, pervasive, and offensive that it effectively denies a person equal access to the recipient's Education Program or Activity; or
- sexual assault, dating violence, domestic violence or stalking as defined in this Policy.

- a. sexual assault means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation, including as follows:

forcible rape – means the carnal knowledge of a person, forcibly and/or against that person's will; or not forcibly or against that person's will where the person is incapable of giving consent because of their youth or because of their temporary or permanent mental or physical incapacity.

forcible sodomy – means oral or anal sexual intercourse with another person, forcibly and/or against that person's will; or not forcibly or against that person's will where the person is incapable of giving consent because of their youth or because of their temporary or permanent mental or physical incapacity.

sexual assault with an object – means the use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body or another person, forcibly and/or against that person's will; or not forcibly or against that person's will where the person is incapable of giving consent because of their youth or because of their temporary or permanent mental or physical incapacity.

forcible fondling - means the touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against the person's will; or not forcibly or against that person's will where the person is incapable of giving consent because of their youth or because of their temporary or permanent mental or physical incapacity.

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incest - means non-forcible sexual intercourse between people who are related to each other within the degrees wherein marriage is prohibited by law.

statutory rape - means non-forcible sexual intercourse with a person who is under the statutory age of consent.

- b. dating violence means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant; and where the existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship and the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
- c. domestic violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Colorado, or any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Colorado.
- d. stalking means engaging in a Course of Conduct directed at a specific person that would cause a Reasonable Person to fear for his or her safety or the safety of others; or suffer Substantial Emotional Distress.

Other Definitions

1. "Advisor" means a person chosen by a Party to provide support and advocacy during the Title IX process, and may include, but is not limited to, a parent, legal guardian, or attorney.
2. "Business Day" means any weekday not designated by the District as a holiday or administrative closure day. When calculating a time of Business Days specified in this Policy, the Business Day of the event that triggers a time is excluded.

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3. “Community Member” means an individual who is not an Employee or a Student.
4. “Complainant” means an individual who is alleged to be the victim of conduct that could constitute Sexual Harassment.
5. “Course of Conduct” means two or more acts, including, but not limited to, acts in which the individual directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person’s property.
6. “Determination of Responsibility” means a finding by a preponderance of the evidence that alleged conduct did or did not violate Board Policy.
7. “Disciplinary Sanctions” are imposed only after a finding of responsibility through the Grievance Process or an agreement through the informal resolution process.
8. “Education Program or Activity” includes locations, events, or circumstances over which exercises substantial control over both the Respondent and the context in which the Sexual Harassment occurs. This includes conduct that occurs on the District property, during any District activity.
9. “Employee” means an employee of or an applicant for employment in the District.
10. “Findings of Fact” means a conclusion by the preponderance of the evidence that conduct did or did not occur as alleged. Findings of fact either support or refute an allegation that Sexual Harassment occurred and are incorporated into any final Determination(s) of Responsibility that are made.
11. “Formal Complaint” means a document filed by a Complainant (or parent or guardian of the parent) or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting that investigate the allegation of Sexual Harassment.

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12. “Grievance Process” means the process of formal resolution pursued in response to the filing of a Formal Complaint that alleges Sexual Harassment.
13. “Parties” means the Complainant and the Respondent, collectively.
14. “Protected Class” for the purposes of this Regulation, means a person’s gender, sexual orientation, gender identity or expression, transgender status or pregnancy, parenting, or marital status. Individuals who participate in a Title IX investigation are also part of a Protected Class by virtue of their participation in the investigation.
15. “Reasonable Person” means a reasonable person under similar circumstances and with similar identities to the Complainant.
16. “Remedies” are designed to restore or preserve equal access the District’s Education Program or Activity. Remedies may include, but are not limited to, the same individualized services as Supportive Measures; however, Remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent.
17. “Report” means a verbal, electronic, or written communication about possible Sexual Harassment triggering the Coordinator’s obligation to make contact with the alleged Complainant, offer Supportive Measures, and discuss the option to file a Formal Complaint.
18. “Respondent” means an individual who has been Reported to be the perpetrator of conduct that could constitute Sexual Harassment.
19. “Retaliation” means intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or Sexual Harassment, but arise out of the same facts or circumstances as a Report or complaint of sex discrimination, or a Report or Formal Complaint of Sexual Harassment, for the purpose of interfering with any right or privilege secured by Title IX or this Policy.

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20. “Student” means a student attending or seeking enrollment in a District-run school
21. “Substantial Emotional Distress” means significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling.
22. “Supportive Measures” means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. such measures are designed to restore or preserve equal access to the District’s Education Programs or Activities without unreasonably burdening the other party, including measures designed to protect the safety of all Parties or the District’s educational environment, or deter Sexual Harassment.

Title IX Coordinator and Key Title IX Officials

1. **Title IX Coordinator and Deputy Title IX Coordinators:** The Title IX Coordinator is the District administrator who oversees compliance with Title IX. The Title IX Coordinator is responsible for administrative response to Reports and Formal Complaints of Sexual Harassment. The Title IX Coordinator is available to discuss the Grievance Process, coordinate Supportive Measures, explain the District’s policies and procedures, and provide education on relevant issues. The Title IX Coordinator may designate one or more Deputy Title IX Coordinators to facilitate these responsibilities.

Any member of the District community may contact the Title IX Coordinator with questions. Title IX Coordinator and Deputy Title IX Coordinator contact information is as follows: Megan Lonergan, Staff Attorney and/Title IX Coordinator and Brandon Wright, Student Engagement Coordinator and/Title IX Investigator, 15701 East First Avenue Suite# 206, Aurora, Colorado 80011, Email: apstitleIX@aurorak12.org, Telephone: 303-326-2440 x- 62440.

Investigators and Decision Makers: In addition to the Title IX Coordinator, appoints investigators, decision makers and informal resolution facilitators who have roles in the formal Grievance Process more fully explained in Section J of this Policy.

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Training: The Title IX Coordinator, Deputy Title IX Coordinators, investigators, decision-makers, and informal resolution facilitators will receive annual training in compliance with Title IX. All administrators in these roles will not rely on sex stereotypes and will provide impartial investigations and adjudications of Formal Complaints of Sexual Harassment. All materials used to train these administrators will be publicly made available on the District's website in accordance with Title IX requirements.

Conflicts of Interest/Bias: The Title IX Coordinator, Deputy Title IX Coordinators, investigators, decision-makers, and informal resolution facilitators shall not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.

Reporting Sexual Harassment and Preservation of Evidence

1. **Reporting to The District:** There are no time limits on Reporting Sexual Harassment to the Title IX Coordinator or the District. If the Respondent is no longer subject to the District's Education Program or Activity or significant time has passed, the District will have limited ability to investigate, respond and/or provide disciplinary Remedies and Sanctions.
 - a. **Reporting to Title IX Coordinator:** Reports of Sexual Harassment may be made to the Title IX Coordinator in any of the following ways, by anyone, at any time: email, phone, online form, mail. Reports may be made to the Title IX Coordinator in person at the Office of Student Care. After Title IX Sexual Harassment has been Reported to the Title IX Coordinator, the Title IX Coordinator will promptly offer Supportive Measures to the Complainant, regardless of whether the Complainant was the reporter of the Sexual Harassment. Supportive Measures can include, but are not limited to, the following: , counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, escort services, mutual restrictions on contact between the Parties, changes in work locations, leaves of absence, increased security and monitoring of certain areas of the property, and other similar measures.
 - b. **Reporting to Employees of The District:** If Employees of the District are notified of Sexual Harassment, they shall promptly Report such Sexual Harassment to the Title IX

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Coordinator who will take immediate action under this Policy.

- c. **Anonymous Reporting:** Anonymous Reports may be made by telephone, in writing or electronically at apstitleix@aurorak12.org. A decision to remain anonymous, however, may greatly limit the District's ability to stop the alleged conduct, collect evidence, or take action against Parties accused of violating this Policy.
2. **Reporting to Law Enforcement:** Reports may be filed with local law enforcement agencies. The Title IX Coordinator can assist with contacting law enforcement agencies. Law enforcement investigations are separate and distinct from the District investigations. Conduct of a sexual nature directed toward Students shall, in appropriate circumstances, be reported as child abuse for investigation by appropriate authorities in conformity with applicable law and Board policy.

Retaliation and False Statements Prohibited

Neither the District nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or this Policy or because the individual has made a Report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy.

- a. Alleged violations of Retaliation will be referred to the Student or Employee Code of Conduct.
- b. The exercise of rights protected under the First Amendment does not constitute Retaliation prohibited under this Policy.
- c. Charging an individual with a Code of Conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this Policy does not constitute Retaliation prohibited under Policy. However, a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

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Initial Response to Reported Sexual Harassment

Upon receipt of a Report of Sexual Harassment, the Title IX Coordinator will promptly contact the Complainant, regardless of whether the Complainant was the individual who initiated the Report. During the initial contact with the Complainant, the Title IX Coordinator will:

- a. Provide the Complainant with notice of their option to have an Advisor;
- b. Explain the process for filing a Formal Complaint;
- c. Explain the Grievance Process;
- d. Discuss the availability of Supportive Measures regardless of whether a Formal Complaint is filed;
- e. Consider the Complainant's wishes with respect to Supportive Measures.

Formal Complaint

The District will investigate all allegations of Sexual Harassment in a Formal Complaint.

1. Filing a Formal Complaint: A Formal Complaint must:

- a. Contain an allegation of Sexual Harassment against a Respondent;
- b. Request that the District investigate the allegation; and
- c. Be signed by the Complainant (or parent or guardian of the Complainant) or Title IX Coordinator.

In limited circumstances, if a Complainant does not sign a Formal Complaint, the Title IX Coordinator may sign a Formal Complaint.

2. Dismissal of a Formal Complaint:

- a. **Required Dismissal:** The Title IX Coordinator will dismiss a Formal Complaint for purposes of Sexual Harassment if:

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- i. The conduct alleged in the Formal Complaint would not constitute Sexual Harassment as defined in this Policy even if proved;
- ii. The conduct alleged did not occur in the District's Education Program or Activity; or
- iii. The Conduct alleged in the Formal Complaint did not occur against a person in the United States.

Dismissal of a Formal Complaint does not preclude action under other provisions of the District's policies and procedures. If a Formal Complaint is dismissed under the matter will be reviewed to determine whether the matter will be pursued under the District Student or Employee Code of Conduct.

- b. **Permissive Dismissal:** The Title IX Coordinator may dismiss a Formal Complaint or any allegations within the Formal Complaint, if at any time during the investigation or hearing:
 - i. A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations within the Formal Complaint,
 - ii. The Respondent is no longer enrolled or employed by the District, or
 - iii. Specific circumstances prevent the District from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations within the Formal Complaint.
- c. **Appeal of Dismissal:** Either Party may appeal the dismissal of a Formal Complaint or any allegations therein. See Section K for bases and process for appeals.
- d. **Consolidation of Formal Complaints:** The Title IX Coordinator may consolidate Formal Complaints as to allegations of Sexual Harassment against more than one Respondent or by more than one Complainant against one or more Respondents where the allegations arise out of the same facts or circumstances.

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Informal Resolution Process

At any time after a Formal Complaint has been signed and before a determination regarding responsibility has been reached, the Parties may voluntarily agree to participate in an informal resolution facilitated by the District that does not involve a full investigation and adjudication. Types of informal resolution include, but are not limited to, mediation, facilitated dialogue, conflict coaching, and restorative justice and resolution by agreement of the Parties.

1. **Informal Resolution Notice:** Prior to entering the informal resolution process, the District will provide the Parties a written notice disclosing:
 - a. The allegations;
 - b. The requirements of the informal resolution process, including the right of any party to withdraw from the informal resolution process and resume the Grievance Process and the circumstances which preclude Parties from resuming a Formal Complaint arising from the same allegations;
 - c. Consequences resulting from the informal resolution process, including that the records will be maintained for a period of seven (7) years but will not be used by investigators or decision-makers if the formal Grievance Process resumes.

2. **Informal Resolution Agreement:** Prior to entering the informal resolution process, the Parties must voluntarily agree, in writing to the use of the informal resolution process.

3. **Informal Resolution Availability:** The informal resolution process is not permitted to resolve allegations that an Employee committed Sexual Harassment against a Student.

4. **Informal Resolution Timeframe:** Informal resolutions of a Formal Complaint will be concluded within 20 Business Days of notice to the District that both Parties wish to proceed with the informal resolution process. Such notice that the Parties wish to proceed with an informal resolution process will “pause” the counting of the timeframe to conclude the Grievance Process of this Policy, should the informal resolution process fail and the Parties continue with the Grievance Process.

5. **Informal Resolution Documentation:** Any final resolution pursuant to the Informal Resolution process will be documented and kept for seven (7) years. However, no recording of the informal resolution process will be made and all statements made during the informal resolution process will

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not be used for or against either party (and the decision-maker and/or appellate decision-maker may not consider any such statement made during informal resolution) should the Parties resume the Grievance Process. Failure to comply with an informal resolution agreement may result in disciplinary action.

Grievance Process

The Grievance Process within this Policy is designed to treat Complainants and Respondents equitably. Remedies are provided to a Complainant where a Determination of Responsibility for Sexual Harassment has been made against the Respondent and Disciplinary Sanctions are not imposed against a Respondent prior to the completion of the Grievance Process.

1. General Grievance Process Information:

- a. **Burden of Proof and Burden of Gathering Evidence:** All investigations and proceedings, including hearings, relating to Sexual Harassment will be conducted using a “preponderance of the evidence” (more likely than not) standard. The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the District, not the Parties.
- b. **Presumption of Not Responsible:** The Respondent is presumed to be not responsible for the alleged conduct until a determination regarding responsibility is made at the end of the Grievance Process.
- c. **Time Frames for Grievance Process:** The District strives to complete the Grievance Process within ninety (90) Business Days. Temporary delays and/or extensions of the time frames within this Policy may occur for good cause. Written notice will be provided to the Parties of the delay and/or extension of the time frames with explanation of the reasons for such action. Examples of good cause for delay/extensions include but are not limited to considerations such as the absence of a party, a party’s Advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

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- d. **Medical Records:** The District will not access, consider, disclose, or otherwise use party's records that are that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the District obtains that party's voluntary, written permission to do so for the Grievance Process within the Policy.
- e. **Privileged Information:** The District will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding the privilege has waived the privilege.
- f. **Range of Disciplinary Sanctions:** Sanctions that may be required if an individual is found responsible for violating this policy include:
 - i. **Students:** Any Student found to have engaged in Sexual Harassment shall be subject to discipline, including, but not limited to, being placed under a remedial discipline plan, suspension or expulsion, subject to applicable procedural requirements and in accordance with applicable law.
 - ii. **Employees:** Any Employee found to have engaged in Sexual Harassment shall be subject to discipline, including, but not limited to, suspension, demotion, or termination.
- g. **Notice of Meetings, Interviews, and Hearings:** Parties and witnesses will be provided notice of any meeting, interview, and/or hearing with sufficient time to prepare to participate. This notice will include the date, time, location, participants and purposes of the meeting, interview and/or hearing.

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2. Notice of Allegations: Upon receipt of a Formal Complaint, the investigator will provide Notice of Allegations to the Parties who are known. The Notice of Allegations will include:

- a. Notice of the party's rights and options
- b. Notice of the District's Grievance Process
- c. Notice of the District's informal resolution process and options
- d. Notice of the allegations of Sexual Harassment including:
 - i. The identities of the Parties involved in the incident, if known;
 - ii. The conduct allegedly constituting Sexual Harassment, and
 - iii. The date and location of the incident, if known.

Notice that the Respondent is presumed not responsible of the alleged conduct and that a determination regarding responsibility is made at the conclusion of the Grievance Process.

Notice that the Parties may have an Advisor of their choice, who may be, but is not required to be an attorney, and that the Advisor may inspect and review evidence.

Notice of the District Code of Conduct provision that prohibits knowingly making false statements or knowingly submitting false information during the Grievance Process.

The Notice of Allegations will be updated and written notice provided to the Parties if at any time during the investigation, the District decides to investigate allegations about the Complainant or Respondent that are not included in the initial Notice of Allegations.

3. Investigation of Formal Complaint: The District will conduct an investigation following a Formal Complaint and Notice of Allegations. During all meetings and interviews the Parties may be accompanied by an Advisor of their choice, which can be, but is not required to be an attorney. The Advisor's role is limited to assisting, advising, and/ or supporting a Complainant or

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Respondent. A Party's Advisor will not be permitted to question witnesses. Further, an Advisor is not permitted to speak for or on behalf of a Complainant or Respondent or appear in lieu of a Complainant or Respondent.

- (A) *Opportunity to Provide Information and Present Witnesses:* Each party will be provided an equal opportunity to provide information to the investigator and present witnesses for the investigator to interview. The information provided by the Parties can include inculpatory and exculpatory evidence. The witnesses can include both fact witnesses and expert witnesses.
- (B) *Opportunity to Inspect and Review Evidence:* Each party will be provided an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including evidence upon which the District does not intend to rely upon in reaching a determination regarding responsibility. This review includes inculpatory and exculpatory evidence that is obtained by a party, witness, or other source. Each party and their Advisor (if any) will be provided an electronic copy of the evidence for inspection and review. The Parties will have ten (10) Business Days to review submit a written response to the investigator. The investigator will consider the written responses prior to completing an investigative report. All evidence provided during the inspection and review phase will be available at any hearing for the Parties to use during the hearing, including for purposes of cross examination.
- (C) *Investigative Report:* Following the opportunity to inspect and review evidence directly related to the allegations raised in the Formal Complaint, the investigator will create an investigative report that fairly summarizes relevant evidence obtained during the investigation.
- (D) *Review of the Investigative Report:* At least ten (10) Business Days prior to the Determination of Responsibility the investigator will provide each party and the Party's Advisor (if any) an electronic copy of the investigative report for their review and written response.
- (E) *Investigation Timeframe:* The investigation of a Formal Complaint will be concluded within ninety (90) Business Days of the filing of a Formal Complaint. The Parties will be provided updates on the progress of the investigation, as needed.

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4. ***Question and Answer Period:*** After the investigation, the District will assign a decision-maker who will afford each party the opportunity to:

(A) submit written, relevant questions that a party wants asked of any party or witness within ten (10) Business Days of receiving the investigative report;

a. Evidence and Questions Excluded: The decision-maker will make determination regarding relevancy prior to sending questions to Parties or witnesses. The following questions and evidence are considered not relevant:

- (1) *Sexual Predisposition or Prior Sexual Behavior of the Complainant:* Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove Consent.
- (2) *Privileged Information:* No person will be required to disclose information protected under a legally recognized privilege. The decision-maker must not allow into evidence or rely upon any questions or evidence that may require or seek disclosure of such information, unless the person holding the privilege has waived the privilege. This includes information protected by the attorney-client privilege.
- (3) *Medical Records:* Evidence or records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, are not permitted to be used during a hearing unless the party provides voluntary, written permission to do so for the Grievance Process within this Policy.

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(B) provide each party with the answers; and

(C) allow for additional, limited follow-up questions from each party.

5. Determination Regarding Responsibility

After the question and answer period, but no sooner than ten (10) days after the Parties have received the investigative report, the decision-maker will provide the Complainant and the Respondent with a written determination simultaneously. The determination regarding responsibility becomes final either on the date that the District provides the Parties with the written determination of the result of the appeal, if an appeal is filed, or, if an appeal is not filed, the date on which an appeal would no longer be considered timely. The written notice will include:

- (A) Identification of the allegations potentially constituting Sexual Harassment;
- (B) A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the Parties, interviews with Parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- (C) Findings of fact supporting the determination;
- (D) Conclusions regarding the application of this Policy to the facts;
- (E) A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any Disciplinary Sanctions that the District imposes on the Respondent, and whether Remedies designed to restore or preserve equal access to the District's Education Program or Activity will be provided by the District to the Complainant; and
- (F) The procedures and permissible bases for the Complainant and Respondent to appeal.

Appeals

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Either party may appeal the determination regarding responsibility, or the dismissal of a Formal Complaint or any allegations therein within five (5) Business Days of the receipt of the determination regarding responsibility or dismissal. The appeals must be made in writing and delivered to the Superintendent.

1. ***Bases for Appeal:*** Appeals of the Determination of Responsibility or the dismissal of a Formal Complaint may be made on the following bases:

- (A) Procedural irregularity that affected the outcome of the matter;
- (B) New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; or
- (C) The Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

2. ***Appeal Procedures:*** If an appeal is submitted to the District it will:

- (A) Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both Parties;
- (B) Ensure that the decision-maker for the appeal is not the same person as the decision-maker that reached the determination regarding responsibility or dismissal, the investigator or the Title IX Coordinator.
- (C) Provide the non-appealing party with five (5) Business Days from receipt of the notification of appeal to submit a written statement in support of the outcome of the determination or dismissal.
- (D) Issue a written decision describing the result of the appeal and the rationale for the result which can be one of the following:

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- a. Affirm the decision-maker's determination regarding the Respondent's responsibility and affirm the Disciplinary Sanctions and Remedies, if applicable;
- b. Affirm the decision-maker's determination regarding the Respondent's responsibility and amend the Disciplinary Sanctions and Remedies, if applicable;
- c. Remand the process back to the question and answer stage for the decision-maker to remedy any procedural irregularity or consider any new evidence;
- d. Reverse the decision-maker's determination of the Respondent's responsibility and amend the Disciplinary Sanctions and Remedies, if applicable; or
- e. Affirm or amend the sanctions and/or Remedies outlined in the determination issued under this Policy.

(E) Provide the written decision simultaneously to both Parties.

3. **Appeal Timeframe:** The appellate decision-maker will release the written decision within ten (10) Business Days of receiving the appeal.

Emergency Removal and Administrative Leave

1. **Emergency Removal:** At any time after the Title IX Coordinator is on notice of Sexual Harassment, the District may remove a Respondent on an emergency basis. The District will only conduct an emergency removal after determining that an immediate threat to the physical health or safety of any Student or other individual arising from the allegations of Sexual Harassment justifies removal.

2. **Administrative Leave:** The District may place an Employee Respondent on administrative leave during the pendency of the Grievance Process in this Policy.

Recordkeeping

The District will maintain all of the documentation related to Reports of Sexual Harassment, Formal Complaints, the Grievance Process, and information resolution process for seven years in accordance

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with state and federal records laws and requirements. The documentation of all records are private and confidential to the extent possible under law. Student records of the Grievance Process are disciplinary records under Family Education Rights and Privacy Act (FERPA). Employee records of the Grievance Process are subject to the Freedom of Information Act (FOIA) and applicable state laws, and included in the Employee's official employment record.

Other

1. ***Additional Code of Conduct or The District Policy Violations***: Alleged violations of the Student or Employee Code of Conduct that arise from the same events as alleged Sexual Harassment under this Policy will be investigated and resolved under the Grievance Process in this Policy unless the Sexual Harassment has been dismissed under Section H of this Policy.

2. ***Role of Parent or Guardian***: Nothing in this Policy may be read in derogation of any legal right of a parent or guardian to act on behalf of a Complainant, Respondent, Party, or other individual, subject to this Policy including but not limited to filing a Formal Complaint.

3. ***Dissemination of Policy***: This Policy will be made available to all the District administrators, faculty, staff, Students, and Community Members in the District Student and Employee handbooks and online at <https://superintendent.aurorak12.org/compliance-resources/title-ix-compliance>.

4. ***Reporting to Outside Agencies***: Students and Employees may Report to external agencies:

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.

AURORA PUBLIC SCHOOLS

APS Code: AC-1-E

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Revised December 2015

Revised January 2017

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, Megan Lonergan, 15701 East 1st Avenue, Suite 111, Aurora, CO 80011, phone: (303) 344-8060 x28771, malonergan@aurorak12.org, 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. This notice is available in alternative forms.

NONDISCRIMINATION/EQUAL OPPORTUNITY

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:

NONDISCRIMINATION/EQUAL OPPORTUNITY

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