

REGULATION

2021

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Community Relations

SUBJECT: GRIEVANCE PROCESS FOR COMPLAINTS OF DISCRIMINATION AND/OR HARASSMENT

Overview

In accordance with applicable federal and state laws and regulations, the District does not discriminate on the basis of any legally protected class or category in its education programs and activities or when making employment decisions. Further, the District prohibits discrimination and harassment on school property and at school functions on the basis of any legally protected class.

The District implements this grievance process as part of its effort to provide for the prompt and equitable resolution of complaints of discrimination and/or harassment. The District will promptly respond to reports of discrimination and/or harassment, ensure that all investigations are conducted within a reasonably prompt time frame and under a predictable fair grievance process that provides due process protections to those who report conduct or incidents of discrimination and/or harassment ("complainants") and alleged offenders ("respondents"), and impose disciplinary measures and implement remedies when warranted.

The District's Civil Rights Compliance Officer(s) (CRCO(s)) will oversee the District's grievance process for all complaints of discrimination and/or harassment. Where appropriate, the CRCO(s) may seek the assistance of other District employees, such as the District's Title IX Coordinator(s) or Dignity Act Coordinator(s) (DAC(s)), or third parties in investigating, responding to, and remediating complaints of discrimination and/or harassment.

Inquiries about this grievance process may be directed to the CRCO(s).

Scope and Application

This regulation outlines the District's grievance process for addressing complaints of discrimination and/or harassment generally. This regulation applies to the dealings between or among the following parties on school property and at school functions:

- a) Students;
- b) Employees;
- c) Applicants for employment;
- d) Paid or unpaid interns;
- e) Anyone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or other person providing services pursuant to a contract in the workplace;
- f) Volunteers; and
- g) Visitors or other third parties.

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Further, discrimination and/or harassment that occurs off school property and somewhere other than a school function can disrupt the District's educational and work environment. This conduct can occur in-person or through phone calls, texts, emails, or social media. Accordingly, conduct or incidents of discrimination and/or harassment that create or foreseeably create a disruption within the District may be subject to this regulation in certain circumstances.

Other District documents such as policies, regulations, procedures, collective bargaining agreements, and the District's *Code of Conduct* may address misconduct related to discrimination and/or harassment and may provide for additional, different, or more specific grievance procedures depending on a number of factors including, but not limited to, who is involved, where the alleged discrimination and/or harassment occurred, and the basis of the alleged discrimination and/or harassment. These documents must be read in conjunction with this regulation.

The dismissal of a complaint under one document does not preclude action under another related District document.

Definitions

For purposes of this grievance process, the following definitions apply:

- a) "School property" means in or within any building, structure, athletic playing field, playground, parking lot, or land contained within the real property boundary line of any District elementary or secondary school, or in or on a school bus or District vehicle.
- b) "School function" means a school-sponsored or school-authorized extracurricular event or activity regardless of where the event or activity takes place, including any event or activity that may take place virtually or in another state.

Reporting Allegations of Discrimination and/or Harassment

Any person may report discrimination and/or harassment regardless of whether they are the alleged victim or not. Reports may be made in person, by using the contact information for the CRCO, or by any other means that results in the CRCO receiving the person's oral or written report. This report may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail to the office address, listed for the CRCO in District policy #3420 -- Non-Discrimination and Anti-Harassment in the District.

Reports of discrimination and/or harassment may also be made to any other District employee including a supervisor or building principal. All reports of discrimination and/or harassment will be immediately forwarded to the CRCO. Reports may also be forwarded to other District employees depending on the allegations.

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All District employees who witness or receive an oral or written report of discrimination and/or harassment must immediately inform the CRCO. Failure to immediately inform the CRCO may subject the employee to discipline up to and including termination.

The District will investigate all complaints of discrimination and/or harassment regardless of the form in which those complaints are made. However, individuals may request and use District form #3420F -- Discrimination, Harassment, and/or Retaliation Complaint Form, to make a complaint of discrimination, harassment, and/or retaliation. This form may be obtained from the CRCO or found on the District's website. Completing this form as thoroughly as possible will assist the District in providing for the prompt, thorough, and equitable resolution of complaints of discrimination, harassment, and/or retaliation.

In addition to complying with this regulation, District employees must comply with any other applicable District policy, regulation, procedure, collective bargaining agreement, or other document such as the District's *Code of Conduct*. Applicable documents include, but are not limited to, the District's policies, regulations, and procedures related to Title IX, sexual harassment in the workplace, and the Dignity for All Students Act (DASA).

Withdrawal of a Complaint

If a complainant attempts to withdraw his or her complaint, the CRCO will determine, with the assistance of any individual or other appropriate third party or legal counsel designated to investigate the complaint, whether the withdrawal request was caused by retaliatory behavior, harassment, undue pressure, or fear of those actions. In the event the CRCO determines the withdrawal request was not prompted by the above factors, he or she will document the complainant's reasons for the withdrawal, ask the complainant to sign the documentation, and terminate the investigation, provided that action is not inconsistent with the District's legal obligations.

If the request to withdraw the complaint is the result of retaliatory behavior, harassment, undue pressure, or the fear of those actions, or if the investigation must be carried out to ensure compliance with relevant District obligations, the investigation will continue and interim measures will be taken to protect the alleged victim, the complainant, and/or witnesses, as appropriate.

Investigation of Complaints of Discrimination and/or Harassment

During the investigation of a complaint, the CRCO or another District employee may serve as the District's investigator. The District may also outsource all or part of an investigation to appropriate third parties or legal counsel. The outsourcing of all or part of an investigation does not relieve the District from its obligation to comply with law and regulation.

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While timelines for investigating complaints of discrimination and/or harassment will vary depending upon the scope and complexity of the matter, it is anticipated that most investigations will be completed within 60 calendar days after receiving a complaint. The investigator will inform the Superintendent or designee if extenuating circumstances require additional time for the investigation to be completed. Written notification will also be provided to all parties regarding the need for additional time.

All complaints of discrimination and/or harassment will be investigated in a prompt, thorough, and equitable fashion, consistent with the following procedures:

- 1) Upon receipt of a complaint, the CRCO will conduct an immediate review of the allegations, and take any interim actions (e.g., instructing the respondent to refrain from communications with the complainant), as appropriate.

If the CRCO is unavailable, including due to a conflict of interest or other disqualifying reason, the report will be directed to another CRCO, if the District has designated another individual to serve in that capacity. If the District has not designated another CRCO, the Superintendent will ensure that another person with the appropriate training and qualifications is appointed to act as the CRCO.

- 2) All complaints of discrimination and/or harassment will be investigated regardless of the form in which those complaints are made. For oral complaints, the individual will be encouraged to complete the complaint form, which is available on the District website, in writing. If he or she refuses, a complaint form based on the oral report will be prepared. The complainant will be provided a copy of the completed complaint form.
- 3) Within three business days of receiving the complaint, the CRCO will notify the complainant, in writing, that his or her complaint has been received. The investigator will begin the investigation promptly.
- 4) During an investigation, all parties will have equal opportunities to present witnesses and evidence. Further, the investigator will, as appropriate:
 - a. Collect, review, and preserve all evidence including, but not limited to, any relevant documents, videos, electronic communications, and phone records.

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- b. Interview all relevant persons including, but not limited to, any complainants, respondents, and witnesses. Interviews of complainants and respondents will be conducted separately. If a student is involved, the District will follow any applicable District policy, regulation, procedure, or other document such as the District's *Code of Conduct* regarding the questioning of students.
 - c. Create a written report of the investigation (such as a letter, memo, or email), which may contain the following:
 - 1. A list of all documents reviewed, along with a detailed summary of relevant documents;
 - 2. A list of names of those interviewed, along with a detailed summary of their statements;
 - 3. A timeline of events;
 - 4. A summary of prior relevant incidents, reported or unreported; and
 - 5. The basis for the decision and final resolution of the complaint, together with any corrective action(s).
 - d. Keep any documents associated with the investigation in a secure and confidential location.
- 5) Upon completing the investigation, the investigator will promptly submit a written report detailing his or her findings to the Superintendent or designee.
- 6) The complainant and the respondent will be informed, in writing, of the investigator's findings as to whether or not discrimination and/or harassment occurred.

After the investigation has concluded, either party may submit additional information to the CRCO that was previously unavailable and would materially impact the findings of the investigation. The District, in its sole discretion, will determine whether and to what extent this information will be considered, and whether additional action(s) should be taken.

The Superintendent or designee will inform the Board of the results of each investigation of discrimination and/or harassment.

The filing of a complaint, and/or the rendering of a decision regarding the complaint will in no way prohibit, prevent, or limit an individual from taking appropriate legal action in accordance with state and federal laws and regulations.

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All investigations will be conducted in a manner consistent with applicable federal and state laws and regulations, as well as any applicable District policy, regulation, procedure, collective bargaining agreement, or other document such as the District's *Code of Conduct*.

Finding That Discrimination and/or Harassment Occurred

If the District's investigation results in a finding that discrimination and/or harassment occurred, the District will take appropriate action which may include disciplinary measures. Actions will vary depending on the respondent's relationship to the District. Actions that may be taken include, but are not limited to:

- 1) For respondents that are District employees, disciplinary measures up to and including termination.
- 2) For respondents that are students, disciplinary measures up to and including expulsion.
- 3) For respondents that are (or are employed by) contractors, subcontractors, vendors, consultants, or other persons providing services pursuant to a contract in the workplace, sanctions up to and including loss of District business.
- 4) For respondents that are volunteers, loss of volunteer status.
- 5) For respondents that are either a visitor, guest, or other third party, expulsion from District premises and/or school activities or events under the control and supervision of the District.

All actions taken will be in accordance with applicable federal and state laws and regulations, as well as any applicable District policy, regulation, procedure, collective bargaining agreement, third-party contract, or other document such as the District's *Code of Conduct*.

Finding That Discrimination and/or Harassment Did Not Occur

If, at any point during the District's investigation, a determination is made that the discrimination and/or harassment did not occur, the CRCO will notify the parties involved and the Superintendent or designee.

However, even if a determination is made that discrimination and/or harassment did not occur, the Superintendent or designee reserves the right to initiate student and staff training to help ensure the school community is committed to preventing and addressing discrimination and/or harassment.

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Confidentiality

To the extent possible, all complaints will be treated as confidential. Disclosure may be necessary in certain circumstances such as to complete a thorough investigation and/or notify law enforcement officials. All disclosures will be in accordance with law and regulation.

The complainant, the respondent, and any witnesses will be directed to refrain from talking about the investigation while it is pending.

Additionally, parents or legal guardians of students accused of, or subjected to, possible discrimination and/or harassment may be notified by the appropriate administrator of the alleged conduct or incident as warranted.

NOTE: Refer also to Regulations #3420F -- Discrimination, Harassment, and/or Retaliation Complaint Form
#3420F.1 -- District Response to Complaint Form
#3421F -- Title IX Formal Complaint Form
#6121F -- Complaint Form for Sexual Harassment in the Workplace
#7550R -- Dignity for All Students
#7550F -- Dignity Act Complaint Form
District Code of Conduct

Approved: 02/22/2021