

## NONDISCRIMINATION/NON-HARASSMENT OF STUDENTS

The Board of Education is committed to the policy that no otherwise qualified student shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any ~~D~~district program or activity on the basis of disability, race, creed, color, sex, sexual orientation, gender expression or gender identity, national origin, religion, or ancestry.

Further, students and employees of the district, including any contracted workers in the district, are prohibited from engaging in any unwelcome physical or verbal conduct or written, pictorial, or visual communications that is directed at a student or group of students because of that student's or group's membership in, or perceived membership in, a protected class based on disability, race, creed, color, sex, sexual orientation, gender identity, gender expression, family composition, religion, age, national origin, or ancestry, which conduct or communication constitutes harassment or discrimination or which is objectively offensive to a reasonable individual who is a member of the same protected class.

Discrimination or harassment directed at students prohibited by district policy is more specifically addressed and defined in Board File Policy AC. Board File Policy AC identifies all obligations of the district, processes and procedures applicable to protecting students from discrimination or harassment as well as responding to reports of discrimination or harassment directed at students. For purposes of this policy: these terms have the following meanings:

- ~~“Race” includes hair texture, hair type, or a protective hairstyle that is commonly or historically associated with race.~~
- ~~“Protective Hairstyle” includes such hairstyles as braids, loes, twists, tight coils or curls, cornrows, bantu knots, afros, and head wraps.~~
- ~~“Sexual Orientation” means a person's orientation toward heterosexuality, homosexuality, bisexuality, or transgender status or another person's perception thereof.~~

### **The District's Commitment**

~~As part of this policy, t~~The Board of Education is committed to maintaining a learning environment for students that is free from discrimination or harassment in violation of its policies, based on an individual's disability, race, creed, color, sex, sexual orientation, gender expression or gender identity, national origin, religion, or ancestry. ~~All such harassment, by District employees, students and third parties, is strictly prohibited.~~

~~It shall be a violation of policy for any staff member to harass students or for students to harass other students through conduct or communications on the basis of disability, race, ethnicity, creed, color, sex, sexual orientation, national origin, religion, or ancestry, or to retaliate against anyone that reports harassment or participates in a harassment investigation.~~

The district shall investigate all indications, informal reports and formal grievances of harassment by students, staff or third parties, and appropriate corrective action shall be taken. Corrective action includes taking all reasonable steps to end the harassment, to make the harassed student whole by restoring lost educational opportunities, to prevent harassment from recurring and to prevent retaliation against anyone who reports harassment or participates in a harassment investigation.

### **Harassment or Discrimination Prohibited**

Board File Policy AC defines “harassment or discrimination” directed at students as any unwelcome physical or verbal conduct or any written, pictorial, or visual communication by a student or employee that is directed at a student or group of students because of that student’s or group’s membership in, or perceived membership in, a protected class based on disability, race, creed, color, sex, sexual orientation, gender identity, gender expression, family composition, religion, age, national origin, or ancestry, which conduct or communication is objectively offensive to a reasonable individual who is a member of the same protected class. The conduct or communication need not be severe or pervasive to constitute harassment or discrimination and constitutes harassment or discrimination if:

- i. Submission to the conduct or communication is explicitly or implicitly made a term or condition of the individual’s access to an educational service, opportunity, or benefit;
- ii. Submission to, objection to, or rejection of the conduct or communication is used or explicitly or implicitly threatened to be used as a basis for educational decisions affecting the individual; or
- iii. The conduct or communication has the purpose or effect of unreasonably interfering with the individual’s access to their educational service, opportunity, or benefit or creating an intimidating, hostile, or offensive educational environment.

Harassment based on race or color can include unwelcome, hostile and offensive verbal and written 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 can include unwelcome, hostile and offensive verbal or written 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, ancestry, or creed can include unwelcome, hostile and offensive verbal or written 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 verbal or written 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.

Due to its possible criminal nature, any physical or sexually natured contact that is based on race, color, national origin, ancestry, creed or disability shall not be considered as merely harassment under Board Policy and will be referred to law enforcement.

Prohibited sexual harassment includes harassment by District employees of students, harassment of students by other students, and harassment by students of District employees. Sexual harassment prohibited by Title IX means conduct on the basis of sex that satisfies one or more of the following:

1. An employee of the District conditions the provision of an aid, benefit, or service of the District on an individual's participation in unwelcome sexual conduct;
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the district's education program or activity;
3. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

Sexual harassment related to students prohibited by District policy is more specifically addressed and defined in Board File AC and at Board File JBC.

### **Reporting, investigation and discipline**

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 Superintendent File(s) accompanying Board Policy AC.

A complaint alleging that a student has been discriminated against or harassed in violation of district policy may be made in writing or in person; by phone, e-mail, or by using an online form. Persons who wish to file a written complaint are encouraged to use the district's complaint form.

The District's response and investigation of a report and/or complaint of discrimination or harassment directed at a student shall be consistent with the requirements established in Board File Policy AC. If a person has any questions related to these requirements, a contact may be made to the District's Compliance Officer, Mr. Aaron Henderson, Director of Equal Education and Employment Opportunity; 620 Wilcox Street, Castle Rock, Colorado, 80104; (303) 387-0127; ahenderson1@dcsdk12.org.

~~The District shall take appropriate action to promptly and impartially investigate allegations of unlawful discrimination or harassment, to end unlawful behavior, to prevent the recurrence of such~~

~~behavior and to prevent retaliation against the individual(s) who files the complaint and/or any person who participates in the investigation. When appropriate, the District shall take interim measures during the investigation to protect against further unlawful discrimination, harassment or retaliation.~~

~~To the extent possible, all reports of unlawful discrimination or harassment will be kept confidential. Students 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. No student shall be subject to adverse treatment in retaliation for any good faith report of harassment under this policy.~~

~~In determining whether the alleged conduct constitutes harassment in violation of this policy, the totality of the circumstances, the nature of the conduct, and the context in which the alleged conduct occurred shall be investigated.~~ Any complaint alleging sexual harassment in violation of Title IX shall be investigated and addressed consistent with requirements established by law and contained within Policy AC-R-2, the ~~any~~ specific grievance process established to address allegations of Title IX sexual harassment.

Any student found to have engaged in prohibited discrimination or 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. Conduct of a physically harmful or sexual nature directed towards students shall, in appropriate circumstances, be reported as child abuse for investigation by appropriate authorities in conformity with applicable law and Board policy.

### **Notice and training**

Notice of this policy shall be circulated to all district schools and departments and incorporated in all student handbooks.

All students and district employees shall receive periodic training related to recognizing and preventing harassment consistent with the Board File Policy AC. District employees shall receive additional periodic training relating to handling reports of harassment. Training materials regarding sexual harassment under Title IX shall be made available to the public on the District's website.

Adopted: July 21, 1992

Revised: April 7, 1998, to reflect current law

Revised: August 7, 2001

Revised: October 21, 2003

Revised: September 2, 2008

Revised: April 17, 2012

Revised: July 11, 2017

Revised: November 12, 2019

Revised: August 4, 2020

Revised:

**LEGAL REFS.:**

Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq. Title IX of the Education Amendments Act of 1972, 20 U.S.C. 1681

Title II of the Equal Educational Opportunities Act of 1974, 20 U.S.C. 1701 and 1703

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

Titles VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d 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. 2-4-401 (13.5), C.R.S. 24-34-301.7 (definition of sexual orientation)

C.R.S. 18-9-121 (bias-motivated crimes)

C.R.S. 22-1-143 (harassment or discrimination directed at students)

C.R.S. 22-32-109 (Board of education- specific duties)

C.R.S. 24-34-402 (Discriminatory or unfair employment practices)

C.R.S. 18-3-404 (Unlawful Sexual Contact)

C.R.S. 18-3-305 (Enticement)

**CROSS REFS.:**

AC - Nondiscrimination/Equal Opportunity

AC-R-1 – Nondiscrimination/Equal Opportunity (Complaint and Compliance Process)

AC-R-2 – Title IX Sexual Harassment Grievance Process

AC-R-3 – Complaint and Grievance Process in Response to Alleged Discrimination or Harassment Directed at Students

GBA - Unlawful Discrimination/Equal Opportunity Employment

GBAA - Sexual Harassment

GBB - Nondiscrimination on the Basis of Disability

JBB - Nondiscrimination on the Basis of Disability

JBC – Sexual Harassment Under Title IX and Other Prohibited Misconduct of a Sexual Nature

JVJIA - Student Rights and Responsibilities/Due Process Rights

JIC/JICDA - Student Conduct

JICDE, Bullying Prevention and Education

JKD/JKE - Student Suspension, Expulsion and Classroom Removal