



## **4001.2: NON-DISCRIMINATION AND HARASSMENT COMPLAINT PROCEDURE**

**A. All employees are responsible for helping the District to prevent unlawful discrimination and unlawful harassment. Employees who believe that they, or other employees, have been subjected to or have witnessed any conduct by a District employee or student which constitutes unlawful discrimination or unlawful harassment (excluding sexual harassment) should follow the following complaint and reporting procedures. Complaints and reporting associated with sexual harassment shall follow the procedures of District Rule 4001.3.**

**1. Employees are encouraged to directly advise the offending person that such conduct is offensive and must stop. If such an effort is unsuccessful or too uncomfortable, or the employee desires not to directly communicate with the offending person, then the employee should report the matter to their immediate supervisor who shall immediately report the complaint to the Associate Superintendent of Human Resources.**

**The supervisor shall assist the complainant in the preparation of a formal written complaint and shall forward the written complaint to the Associate Superintendent of Human Resources within ten (10) working days of the occurrence of the event. The written complaint must be signed by the complainant and contain a complete statement of the facts constituting the offense.**

**2. If the alleged offending person is a student, the staff member shall immediately report the matter to a building assistant principal or principal.**

**3. When the Associate Superintendent of Human Resources receives such a written complaint of unlawful discrimination or unlawful harassment, he or she (or his/her designee) shall:**

**a. If the alleged offending person is a District employee, begin formal investigation of the complaint as set forth in Level 1 of the formal complaint procedures set forth in this Rule.**

**b. If the alleged offending person is an adult, but not a District employee, begin formal investigation of the complaint and implement appropriate corrective actions as may be available.**

c. If the alleged offending person is a student, immediately report the matter to a building assistant principal or principal. When an assistant principal or principal receives such a report of student discrimination, he or she shall immediately investigate the matter in accordance with the District's student discipline procedures and, if it is concluded that a violation of the District's Standards for Student Conduct has occurred, impose discipline sanctions pursuant to the Standards for Student Conduct and undertake other appropriate actions, if any, to redress any such conduct and prevent its future recurrence.

## **II. Investigation Procedures**

**Level 1.** When the Associate Superintendent of Human Resources receives a written complaint of unlawful discrimination or unlawful harassment by a District staff member, he or she shall designate either a District or building administrator to investigate the matter in accordance with the District's personnel procedures. The administrator designated to investigate the matter shall not be the alleged offending person.

**A.** The designated administrator shall investigate the matter and respond to the complainant via a written report within ten (10) working days of the filing of the written complaint. Such written report shall summarize the facts, the determinations made, and, to the extent permissible, any corrective actions to be implemented.

**Level 2.** If the employee is not satisfied with the resolution of their complaint at Level 1, he/she may formalize their complaint by filing a formal written appeal with the Associate Superintendent of Human Resources within five (5) working days after the investigator's written report at Level 1.

**A.** The Level 2 written appeal must be signed, contain a complete statement of the facts constituting the complaint, and the reasons the Level 1 resolution of their complaint is not acceptable.

**B.** Upon receipt of the formal written appeal and the investigator's written report, the Associate Superintendent of Human Resources shall investigate the appeal. As part of the investigation, the Associate Superintendent of Human Resources may meet with the complainant and undertake any such investigation as the Associate Superintendent of Human Resources deems appropriate. The Associate Superintendent of Human Resources may, in his or her discretion, designate another District administrator, other than the administrator who investigated the complaint at Level 1, to conduct the investigation and appeal resolution when appropriate.

**C.** The Associate Superintendent of Human Resources or his/her designee shall complete a written report and provide the employee with a copy of such written report within ten (10) working days of receiving the formal Level 2 written appeal. Such written report shall summarize the facts, the determinations made, and, to the extent permissible, any corrective actions to be implemented.

**Level 3.** If the employee is not satisfied with the resolution of their complaint at Level 2, they may appeal to the District's Superintendent by filing a formal written appeal with the Superintendent within seven (7) working days after receipt of the written report at Level 2.

**A. The written appeal must be signed, contain a complete statement of the facts constituting the complaint and appeal and the reasons the Level 2 resolution is not acceptable.**

**B. Upon receipt of the formal written appeal, the Superintendent may, if he/she deems it necessary, investigate the appeal. As part of any such investigation, the Superintendent may undertake any such investigation deemed appropriate. The Superintendent may, in his or her discretion, designate another District administrator, other than any previously involved administrator(s), to conduct the investigation and appeal resolution when appropriate.**

**C. The Superintendent or designee shall complete a written report and provide the employee with a copy of such written report within ten (10) working days of receiving the formal Level 3 written appeal. Such written report shall summarize the facts, the determinations made, and, to the extent permissible, any corrective actions to be implemented. The Superintendent's decision and any action taken shall be final.**

### **III. General Provisions.**

**A. Nothing in this Rule shall be construed as limiting the ability of employees who have a complaint regarding unlawful discrimination or unlawful harassment from discussing the matter informally with their supervisor or any appropriate District administrators or staff members, or as limiting the involvement of the administration in informally addressing and resolving any such complaints. Employees are encouraged, but not required, to discuss a contemplated complaint informally with their supervisor or other District administrators or staff members prior to filing a complaint.**

**B. The time limits in these procedures are for the purpose of insuring prompt action. If an employee does not pursue the next step of a procedure within the time period specified, it shall constitute an abandonment of the complaint. If an investigating administrator does not respond within the time period specified, the employee may proceed to the next level of the complaint procedure. Nothing in this Rule shall prohibit the Associate Superintendent of Human Resources and the employee from jointly agreeing in writing to extend time lines set forth in this Rule.**

**C. At any level of the complaint procedure, the investigating administrator may require meetings with the employee and/or the alleged offending person to seek resolution or to further the investigation. Failure by the complainant to participate in any such meeting shall constitute an abandonment of the complaint. Failure of the alleged offending party to participate in any such meetings shall subject such offending party to discipline, as appropriate.**

**D. No retaliation of any kind will be permitted against any employee who makes a good faith complaint pursuant to this Rule, or against any person who in good faith participates in or cooperates with an investigation of alleged unlawful discrimination or unlawful harassment.**

**All persons are prohibited from knowingly proving false statements or knowingly submitting false information during the complaint process. Any person who does so may be subject to disciplinary action outside of and in addition to any disciplinary action under this Rule.**

E. Information regarding an individually identifiable student or employee will only be shared with an employee filing a complaint or with other persons, if allowed by law and in accordance with District policies and rules.

F. To the extent permitted by law and in accordance with District policies and rules, the identity of employees filing complaints pursuant to this Rule and any documents generated or received pertaining thereto, will be kept confidential. Information may be disclosed if necessary to further an investigation or appeal, or if necessary to carry out appropriate discipline. The District may disclose information to District personnel, law enforcement authorities, and others when necessary to enforce this Rule or when required or allowed by law.

G. The proper law enforcement agency will be contacted promptly when there is a reasonable suspicion that a violation of a state or federal criminal law may have been committed.

H. Working days shall mean: (i) days when school is in session for students during the school year; and (ii) all weekdays when school is in recess for summer vacation, excluding any national holidays.

#### **Date of Adoption**

September 20, 2010

#### **Date of Revision**

July 2, 2012

July 9, 2018

November 16, 2020

#### **Related Policies and Rules**

[1100.4: Notice of Non-Discrimination](#)

[4001: Non-Discrimination and Harassment](#)

[4001.1: Non-Discrimination and Harassment](#)

[4001.3: Sexual Harassment Complaint Procedure](#)

[4100: Recruitment, Selection, and Non-Discrimination](#)

[4163.3: Remedial Action Investigation/Procedure](#)

[5010: Non-Discrimination and Harassment](#)

[5010.1: Non-Discrimination and Harassment](#)

[5010.2: Non-Discrimination and Harassment Complaint Procedure](#)

[5010.3 Sexual Harassment Complaint Procedure](#)

[5020: Equal Educational Opportunity](#)

[5020.1: Equal Educational Opportunity](#)

[6002: Non-Discrimination](#)

## **Legal Reference**

**Nebraska Fair Employment Practice Act (Neb. Rev. Stat. §48-1101 et seq.)**

**Neb. Rev. Stat. §79-544; 79-896; 79-820; 79-801; 79-802; 48-901 to 48-912**

**Age Discrimination in Employment Act**

**Title VII Civil Rights Act**

**Rehabilitation Act 1973 and Rehabilitation Act Amendments**

**Title IX of the Education Amendments of 1972**

**34 C.F.R. §§ 106.30, 106.44, 106.45 (2020)**

**The Americans with Disabilities Act of 1990**

**Equal Employment Opportunity Act**

**Nebraska Equal Opportunity in Education Act (Neb. Rev. Stat. §79-2,114 to 79-2,124)**