Washington County School District
121 West Tabernacle Street
Saint George, Utah 84770
435-673-3553

District Policy 1710

Non-discrimination

Anti/Discrimination & Civil Rights Grievance Procedure for Washington County School District - Adopted 9-77; Revised 10-11-94; Revised 8-14-01; Revised 11-9-04; Revised 5-12-15; Revised 8-9-16; Revised 10-10-17; Revised 8-10-21.

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1. Purpose:

Washington County School District (District) is committed to a work and educational environment in which all individuals are treated with respect and dignity. Each individual has the right to work and learn in a professional atmosphere that promotes equal opportunities and prohibits unlawful discriminatory practices, including harassment, intimidation, oppression and exploitation. Therefore, Washington County School District expects that all relationships among persons in the office, the school, during activities, and in the classroom to be educationally promoting, and free of bias, prejudice and harassment. The District will not tolerate unlawful discrimination or harassment of any kind. Through enforcement of this policy and by education of employees, the District will seek to prevent, correct and discipline behavior that violates this policy.

2. Policy:

Our policy is to hold all employees, beginning with administration, accountable for keeping our workplace free from discrimination and ensuring that we provide equal employment opportunity for all in our workforce and for those seeking to enter our workforce. All employees, regardless of their positions, are covered by and are expected to comply with this policy and to take appropriate measures to ensure that prohibited conduct does not occur. Appropriate disciplinary action will be taken against any employee who violates this policy. Based on the seriousness of the offense, disciplinary action may include verbal or written reprimand, suspension or termination of employment.

3. Prohibited Conduct under this Policy:

The District, in compliance with all applicable federal, state and local anti-discrimination and harassment laws and regulations, enforces this policy in accordance with the following definitions and guidelines:

3.1. Discrimination

3.1.1. It is a violation of the District's policy to discriminate in the provision of employment opportunities, benefits or privileges; to create discriminatory work conditions; or to use discriminatory evaluative standards in employment if the basis of that discriminatory treatment is, in whole or in part, the person's race, color, national origin, age, religion, disability status, gender, sexual orientation, gender identity, pregnancy status, genetic information or marital status.

3.1.2. Discrimination of this kind may also be strictly prohibited by a variety of federal, state and local laws, including Title VII of the Civil Rights Act 1964, the Age Discrimination Act of 1975, and the Americans with Disabilities Act of 1990. This policy is intended to comply with the prohibitions stated in these anti-discrimination laws.

3.1.3. Discrimination in violation of this policy will be subject to disciplinary measures up to and including termination.

3.2. Harassment

3.2.1. The District prohibits harassment of any kind, including sexual harassment, and will take appropriate and immediate action in response to complaints or knowledge of violations of this policy. For purposes of this policy, harassment is any verbal or physical conduct designed to threaten, intimidate or coerce an employee, co-worker or any person working for or on behalf of the District. Verbal taunting (including racial and ethnic slurs) that, in the employee's opinion, impairs his or her ability to perform his or her job is included in the definition of harassment.

3.2.2. The following examples of harassment are intended to be guidelines and are not exclusive when determining whether there has been a violation of this policy:

- Verbal harassment includes comments that are offensive or unwelcome regarding a person's nationality, origin, race, color, religion, gender, sexual orientation, age, body, disability or appearance, including epithets, slurs and negative stereotyping.

- Nonverbal harassment includes distribution, display or discussion of any written or graphic material that ridicules, denigrates, insults, belittles or shows hostility, aversion or disrespect toward an individual or group because of national origin, race, color, religion, age, gender, sexual orientation, pregnancy, appearance, disability, sexual identity, marital or other protected status.

3.3. Sexual harassment

3.3.1. Sexual harassment is a form of unlawful employment discrimination under Title VII of the Civil Rights Act of 1964 and is prohibited under the District's anti-harassment policy. According to the Equal Employment Opportunity Commission (EEOC), sexual harassment is defined as "unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature . . . when . . . submission to or rejection of such conduct is used as the basis for employment decisions . . . or such conduct has the purpose or effect of . . . creating an intimidating, hostile or offensive working environment."

3.3.2. There are two types of sexual harassment:

• “Quid pro quo” harassment, where submission to harassment is used as the basis for employment decisions. Employee benefits such as raises, promotions and better working hours are directly linked to compliance with sexual advances. Therefore, only someone in a supervisory capacity (with the authority to grant such benefits) can engage in quid pro quo harassment. Examples: A supervisor promising an employee a raise if she goes on a date with him; a manager telling an employee she will fire him if he does not have sex with her.

• “Hostile work environment,” where the harassment creates an offensive and unpleasant working environment. A hostile work environment can be created by anyone in the work environment, whether it be supervisors, other employees or customers. Hostile environment harassment consists of verbiage of a sexual nature, unwelcome sexual materials or even unwelcome physical contact as a regular part of the work environment. Texts, e-mails, cartoons or posters of a sexual nature; vulgar or lewd comments or jokes; or unwanted touching or fondling all fall into this category.

3.3.3. Sexual harassment occurs when unsolicited and unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature:

• Is made explicitly or implicitly a term or condition of employment.

• Is used as a basis for an employment decision.

• Unreasonably interferes with an employee’s work performance or creates an intimidating, hostile or otherwise offensive environment.

3.3.4. Sexual harassment may take different forms. The following examples of sexual harassment are intended to be guidelines and are not exclusive when determining whether there has been a violation of this policy:

• Verbal sexual harassment includes innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions, lewd remarks and threats; requests for any type of sexual favor (this includes repeated, unwelcome requests for dates); and verbal abuse or “kidding” that is oriented toward a prohibitive form of harassment, including that which is sexual in nature and unwelcome.

• Nonverbal sexual harassment includes the distribution, display or discussion of any written or graphic material, including calendars, posters and cartoons that are sexually suggestive or show hostility toward an individual or group because of sex; suggestive or insulting sounds; leering; staring; whistling; obscene gestures; content in letters and notes, facsimiles, e-mail, photos, text messages, tweets and Internet postings; or other form of communication that is sexual in nature and offensive.

• Physical sexual harassment includes unwelcome, unwanted physical contact, including touching, tickling, pinching, patting, brushing up against, hugging, cornering, kissing and fondling and forced sexual intercourse or assault.

• Courteous, mutually respectful, pleasant, noncoercive interactions between employees, including men and women, that are appropriate in the workplace and acceptable to and welcomed by both parties are not considered to be harassment, including sexual

harassment.

3.4. Retaliation

3.4.1. No hardship, loss, benefit or penalty may be imposed on an employee in response to:

- Filing or responding to a bona fide complaint of discrimination or harassment.
- Appearing as a witness in the investigation of a complaint.
- Serving as an investigator of a complaint.

3.4.2. Retaliation or attempted retaliation in response to lodging a complaint or invoking the complaint process is a violation of this policy. Any person who is found to have violated this aspect of the policy will be subject to sanctions up to and including termination of employment.

3.5. Consensual Romantic or Sexual Relationships

3.5.1. The District strongly discourages romantic or sexual relationships between an administrator or other supervisory employee and his or her staff (an employee who reports directly or indirectly to that person) because such relationships tend to create compromising conflicts of interest or the appearance of such conflicts. In addition, such a relationship may give rise to the perception by others that there is favoritism or bias in employment decisions affecting the staff employee. Moreover, given the uneven balance of power within such relationships, consent by the staff member is suspect and may be viewed by others or, at a later date, by the staff member as having been given as the result of coercion or intimidation. The atmosphere created by such appearances of bias, favoritism, intimidation, coercion or exploitation undermines the spirit of trust and mutual respect that is essential to a healthy work environment. If there is such a relationship, the parties need to be aware that one or both may be moved to a different location, or other appropriate actions may be taken.

3.5.2. If any employee of the District enters into a consensual relationship that is romantic or sexual in nature with a member of his or her staff (an employee who reports directly or indirectly to him or her), or if one of the parties is in a supervisory capacity in the same department in which the other party works, the parties must notify the human resource director, manager, or school principal. Because of potential issues regarding quid pro quo harassment, the District has made reporting mandatory. This requirement does not apply to employees who do not work at the same location or to parties who do not supervise or otherwise manage responsibilities over the other.

3.5.3. Once the relationship is made known to the District, District Administration will review the situation with human resources in light of all the facts (reporting relationship between the parties, effect on co-workers, job titles of the parties, etc.) and will determine whether one or both parties need to be moved to another job or location. If it is determined that one party must be moved, and there are jobs at other District Schools or locations available for both, the parties may decide who will be the one to apply for a new position. If the parties cannot amicably come to a decision, or the party is not chosen for the position to which he or she applied, the parties will contact human resources, which will decide which party should be moved. That decision will be based on which move will be least disruptive to the District as a whole. If it is determined that one or both parties must be moved because the relationship is having an adverse impact on the

school or office environment, but no other jobs are available for either party, the parties may be given the option of terminating their relationship or resigning.

3.6. Bullying Conduct:

3.6.1. Bullying under this Policy is defined as a school employee intentionally committing a written, verbal, or physical act against another school employee or student that a reasonable person under the circumstances should know or reasonably foresee will have the effect of:

- causing physical or emotional harm to an employee or student;
- causing damage to the school employee's or student's property;
- placing the school employee or student in reasonable fear of harm to the school employee's or student's physical or emotional well-being; or damage to the school employee's or student's property;
- creating a hostile, threatening, humiliating, or abusive educational environment due to the pervasiveness, persistence, or severity of the actions; or a power differential between the bully and the target; or substantially interfering with a student having a safe school environment that is necessary to facilitate educational performance, opportunities, or benefits.

3.6.2. Cyber-bullying means using the Internet, a cell phone, or another device to send or post text, video, or an image with the intent or knowledge, or with reckless disregard, that the text, video, or image will hurt, embarrass, or threaten an individual, regardless of whether the individual directed, consented to, or acquiesced in the conduct, or voluntarily accessed the electronic communication

3.7. Local Administrative Complaint Procedure

3.7.1. An individual who feels harassed, discriminated or retaliated against may initiate the complaint process by filing a complaint directly with the Superintendent’s Designee (the District EEOC Coordinator) under District Policy 1710, Employee Grievance Procedure, starting at the Formal Grievance level specific to paragraph 3. 2. Reference: https://www.washk12.org/policywiki/index.php?page=1720-employee-grievance-procedure

The Superintendent’s Designee for discrimination related complaints is the District EEOC Coordinator. The contact information is:

District EEOC Coordinator

Executive Director of Human Resources

121 West Tabernacle St.

St. George, UT 84770

(435) 673-3553 Ext. 5202

Email: eeoc_coordinator@washk12.org

Any Employee or Applicant requesting or interested in obtaining information about workplace accommodations should contact:

ADA and Benefits Coordinator

121 West Tabernacle St.

St. George, UT 84770

(435) 673-3553 Ext. 5119

Email: ada_coordinator@washk12.org

3.7.2. No formal action will be taken against any person under this policy unless a written and signed complaint containing sufficient details to determine if the policy may have been violated is submitted with the complaint, reference Employee Grievance Procedure, Policy 1710. If a supervisor or administrator becomes aware that harassment or discrimination is occurring, either from personal observation or as a result of an employee's coming forward, the supervisor or administrator should immediately report it to the HR director.

3.7.3. The District will politely treat any person who invokes the Employee Grievance Procedure outlined in District Policy 1720, courteously, swiftly, and confidentially to the extent possible in light of the need to take appropriate corrective action. Lodging a complaint will in no way be used against the employee or have an adverse impact on the individual's employment status. Because of the damaging nature of harassment to the victims and to the entire workforce, aggrieved employees are strongly urged to use the Employee Grievance Procedure. However, filing groundless or malicious complaints is an abuse of this policy and will be treated as a violation under District Policy 1450.

3.8. Complaints of Sexual Harassment may also be filed under District Policy 2116. Policy 2116 provides administrative guidance prohibiting Sexual Harassment under Title IX oof the Education Amendments Act of 1972.

Reference: https://procedure.washk12.org/policy/2000/2116

3.9. Confidentiality: During the complaint process, the confidentiality of the information received, the privacy of the individuals involved, and the wishes of the complaining person will be protected to as great a degree as is possible. The expressed wishes of the complaining person for confidentiality will be considered in the context of the District's legal obligation to act on the charge and the right of the charged party to obtain information. In most cases, however, confidentiality will be strictly maintained by the District and those involved in the investigation. In addition, any notes or documents written by or received by the person(s) conducting the investigation will be kept confidential to the extent possible and according to any existing state or federal law.

3.10. Jurisdiction for Compliance: Nothing in this policy may prevent the complainant or the respondent from pursuing formal legal remedies or resolution through local, state or federal agencies or the courts.

3.11. Employees may also file Directly with UALD or EEOC at:

*Utah Anti-Discrimination &

Labor Division

160 East 300 South, 3rd Floor
Salt Lake City, UT 84114-6600

(801) 530-6800 or
(800) 530-5090

Office hours:
Monday-Friday
8:00 a.m.– 5:00 p.m.

**Equal Employment Opportunity Commission Phoenix District Office

3300 North Central Avenue

Suite 690

Phoenix, AZ 85012-2504

Office hours: 8:00 a.m. – 4:30 p.m., M-F

Phone: 1-800-669-4000

FAX: 602-640-5071

TTY: 1-800-669-6820

ASL Video Phone: 844-234-5122

* Individuals must file their charge of employment discrimination with Utah Anti-Discrimination & Labor Division UALD within 180 days of the alleged discriminatory act.

** If more than 180 days have passed since the last date of harm, but less than 300 days, the charge must be sent to the Equal Employment Opportunity Commission (EEOC) for its consideration.

3.12. Training:

3.12.1. All new employees shall receive information about this policy at new employee orientation. All other employees shall be provided information on a regular basis regarding this policy and the District's commitment to a discrimination-free and harassment-free learning and working environment.

3.12.2. Principals in each school and program directors shall be responsible for informing students and staff of the terms of this policy, including the procedures established for investigation and resolution of complaints. School administration must include age-appropriate guidance about this Policy in the school's student handbook or in student accessible online resources.

References:

- Discrimination in Employment: Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000(e)) and Utah Code Ann § 34A-5-102 Et Seq. (As modified by S.B 296 Utah 2015 General Session) http://www.eeoc.gov/laws/statutes/titlevii.cfm
- Discrimination on the basis of Age: The Age Discrimination Act of 1975 (29 U.S.C. § 631) and its implementing regulations (34 C.F.R. Part 110).
- Discrimination on the basis of Disability: Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) and its implementing regulations (34 C.F.R Part 104). Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12131 - 12134) and its implementing regulations (28 C.F.R. Part 35). (For persons requesting accommodations refer to www.washk12.org Section 504 and/or Individuals with Disabilities Education Act (IDEA).)
- Discrimination on the basis of Race, Color, or National Origin: Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000(d)) and its implementing regulations (34 C.F.R. Part 100
- Equal Employment Opportunity Commission (EEOC) Regulations: 29 C.F.R. § 1600 Et. Seq. https://www.law.cornell.edu/cfr/text/29/chapter-XIV
- Utah Criminal Code: UCA §§ 76-5-401 through 76-5-407. Criminal Code provisions regarding unlawful sexual intercourse, rape, rape of a child, object rape, object rape of a child, sodomy and forcible sexual abuse, sexual abuse of a child, and aggravated sexual assault.
- Utah Educator Standards: Utah Administrative Code R277-217, which requires that the professional educator shall familiarize himself with professional ethics and is responsible for compliance with applicable professional standards.
- Prohibited Bullying and Hazing, UCA § 53G-9-601 et Seq.