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

District Policy 2115

Student Non-Discrimination and Prevention of Harassment

Non-Discrimination & Civil Rights Grievance Procedure for students of the Washington County School District - Adopted 10/10/17

---

1. Purpose

The Washington County School District is dedicated to cultivating an educational environment in which all individuals are treated with respect and dignity.

2. Policy

The Washington County School District promotes an atmosphere of trust, respect, and learning, free of bias, prejudice and harassment in all its educational programs, including academics, extracurricular activities and athletics. Each student has the right to learn in an atmosphere free from harassment, discrimination, or retaliation. These policies apply to all students and prohibit discriminatory conduct engaged in by students, staff members, administrators, or third parties. The Washington County School District will provide appropriate training to students, teachers, and staff regarding Policy expectations. Finally, the Board is resolute in its determination to enforce this Policy by investigating complaints and taking appropriate action when violations are identified.

2.1. District Notice of Non-Discrimination:

In accordance with the Civil Rights Act of 1964, the Washington County School District does not discriminate on the basis of race, color, national origin, sex, disability, gender identity, sexual orientation, religious affiliation, age, pregnancy, parental or marital status, in its programs and activities and provides equal access to the Boy Scouts and other designated youth groups. Non-discrimination applies to student admission, treatment, and access to all District programs.

2.1.1. School handbooks and online resources addressed to students and parents must include the “District Notice of Non-Discrimination” statement. Publications include:

- Student registration material,
- Open enrollment flyers, school/district newspapers, and applicable newsletters.

• Brochures, catalogs, posters, and programs that promote or invite student participation in activities, clubs, CTE programs, etc.

2.1.2. Notice must be available in prominent languages, such as English and Spanish.

2.1.3. District and school administration must provide age appropriate guidance about this policy including the grievance procedures to students and employees.

2.2. Inquiries:

Students, parents, guardians, or citizens who have inquiries; are requesting accommodations; or are alleging violations regarding the non-discrimination policies; including Title II, Title VI, Title IX, and Section 504 this Policy or who are requesting accommodation should may contact the designated school representative and/or:

Director of Student Services

Washington County School District

121 W Tabernacle St.

St. George, UT 84770

(435) 673-3553 Ext: 5164

Email: ocr_coordinator@washk12.org

2.3. Definitions:

2.3.1. Discrimination: The unequal treatment of persons based on certain characteristics, including: race, color, national origin, sex, disability, gender identity, sexual orientation, religious affiliation, age, pregnancy, marital status, parental, or breastfeeding status, citizenship, genetic information, or any other characteristic protected by law.

2.3.2. Gender Identity: A person's gender identity can be shown by providing evidence, including, but not limited to, medical history, care or treatment of the gender identity, consistent and uniform assertion of the gender identity, or other evidence that the gender identity is sincerely held, part of a person's core identity, and not being asserted for an improper purpose.

2.3.3. Grievance: An assertion, claim, or complaint that a particular set of rules has been violated. It may involve some form of systemic discrimination involving a regulation, policy, practice; a disagreement over the meaning of such or a dispute over facts. A grievance may relate to the actions of a particular individual, to the practices or policies of a particular school or district as a whole. A grievance may be against a single individual or against a group or protected class of individuals.

2.3.4. Harassment: A form of discrimination involving unwelcome conduct based on certain characteristics. Harassment does not have to include intent to harm; it may include subtle actions on the part of the perpetrator to put down the victim. Harassment may have multiple targets: it may be directed at an individual, or between persons of the same characteristic, or group. It may be student to student; staff to student; staff to staff; student to staff; or by third

parties. Harassment may be verbal as well as nonverbal, written, or physical conduct that denigrates or shows hostility or aversion toward an individual because characteristics protected by law. Harassment includes epithets, slurs or negative stereotyping; threatening, intimidating or hostile acts; ridicule or mockery; insults or put-downs; denigrating jokes; and written or graphic material that denigrates or shows hostility, aversion or demeaning pictures toward an individual or group of individuals. It may be circulated by e-mail, phone (including voice messages), text messages, social networking sites or other means.

2.3.5. Gender-based harassment is also a form of sex-based harassment and refers to unwelcome conduct based on an individual's actual or perceived sex, including harassment based on gender identity or nonconformity with sex stereotypes, and not necessarily involving conduct of a sexual nature.

2.3.6. Hostile environment: When conduct is sufficiently severe, pervasive, or persistent that it creates an intimidating, threatening, abusive environment, or interferes with the educational environment so as to limit a student's ability to participate in or benefit from services, activities, or opportunities offered by a school.

2.3.7. Sexual harassment: Is unwelcome conduct of a sexual nature that has the effect of depriving victims of access to the educational opportunities or benefits provided by the school. (DAVIS v. MONROE COUNTY BD. OF ED., 526 U.S. 629 (1999). Quid pro quo sexual harassment occurs if a students or staff member directly or indirectly requires a student to submit to sexual conduct in order to participate in a program or activity, or if a faculty, staff, or student requires sexual conduct as the basis for an educational decision, such as a good grade, attending an event, or participating in a program. Sexual harassment includes sexual advances, requests for sexual favors, verbal or physical conduct, sexual violence and sexual exploitation, (including recording or distributing images of another person's intimate body parts).

2.3.8. Retaliation: unwanted conduct toward a person for reporting discrimination or harassment. Any unwelcome conduct, form of sanction or adverse treatment, including but not limited to intimidation, reprisal, or harassment of an individual for reporting discrimination or harassment; filing a complaint alleging a violation; participated in an investigation, hearing, or proceeding; or advocated for others' rights.

2.4. Reporting: Washington County School District encourages the prompt reporting of all perceived incidents of discrimination or harassment to the Director of Student Services, principal, or administrator/supervisor so that rapid and constructive action can be taken before relationships become irreparably strained. Early reporting and intervention have proven to be the most effective method of resolving actual or perceived incidents of harassment and discrimination.

2.4.1. Victims: Individuals who believe they have been the victims of conduct prohibited by this policy or believe they have witnessed such conduct should report their concerns with their administration, the school principal, or Director of Student Services (contact information above).

2.4.2. Any teacher, counselor, administrator, bus driver, staff member, custodian, or any other employee receiving a report of harassment, discrimination, or retaliation; or who has reasonable cause to believe that a student may have been sexually or physically abused must report the incident to the school principal, designated administrator/ supervisor, or Director of Student Services. Parents or other community members are also asked to promptly reports concerns.

2.4.3. Any reported allegations of harassment, discrimination or retaliation will be investigated promptly in accordance with the grievance procedures set forth below.

3. Grievance Procedure

(Grievance Policy for Employee Complaints of

Discrimination is reference in District Policy 1710)

The intent of the investigation process is to provide a prompt and equitable resolution of student complaints alleging any form of discrimination. A typical investigation may take 60 school days; however, timelines may vary depending on the complexity of the investigation and the severity and extent of the discrimination and/or harassment. This includes complaints filed by students against school employees, other students, or third parties.

3.1. Filing a Grievance: There are three major stages of the complaint process: (1) the school will conduct a full investigation of the complaint; (2) both parties receive a response regarding the outcome of the complaint; and (3) the parties may file an appeal, if applicable.

3.2. Oral and written complaints are accepted; however, to preserve the accuracy of the grievance we encourage the submission of written grievances. The Director of Student Services will facilitate the complaint process by providing transcription assistance to include language translation as necessary. Written complains should include the following:

- The name, address, telephone number and signature of the complainant
- The name and address of the school where the incident occurred
- The name(s) of alleged person(s) responsible for violation
- A sufficient description of the nature of the alleged discrimination (explain what occurred)
- The date(s) on which the alleged discrimination took place
- A statement of requested resolution

3.3. Administrative Investigation: Refer to the Conducting an Administrative Investigation Policy, additionally:

3.3.1. Notice Required under this Policy: Upon receipt of a complaint or charge of discrimination, administrators must provide a copy of this policy along with appropriate notices to all parties, including parent/guardian (or emancipated minor). It is the right of the parent/guardian of each party involved to receive notice that the complainant has the right to: file a criminal complaint (including unlawful sexual harassment); the right to have someone translate or interpret during the interview; the right to have representation; the right to confidentiality; the right to end the informal process at any time; the right to extend the informal complaint to the designated district official as noted in this policy; the right to appeal; or the right to file an independent formal complaint with the Office of Civil Rights at any time which is not limited to any aspect of the Washington County School District grievance process.

3.3.2. Reporting to Law Enforcement: In cases involving potential criminal conduct, school personnel must immediately notify appropriate law enforcement authorities. When any person has reason to believe that a child has been subjected to abuse or neglect, that person shall immediately notify the nearest peace officer, law enforcement agency, or office of the Division of Child and Family Services. A law enforcement investigation does not relieve the school of its independent obligation to investigate the conduct.

3.3.3. Interim Measures During an Investigation: It may be appropriate for a school to take interim measures during the investigation of a complaint. For instance, if a student alleges that he or she has been sexually assaulted by another student, the school may decide to suspend or place the alleged perpetrator in a separate class or at another school location. If the alleged harasser is a teacher, the teacher may be placed on administrative leave pending an investigation into the allegations. School administration must warn the accused to not contact the alleged victim or potential witnesses during an investigation.

3.3.4. Take Effective Steps Toward an Equitable Solution: What constitutes a reasonable response to information about possible discrimination, retaliation, or harassment will differ depending upon the circumstances; considering the identity of the harasser and the context in which the harassment occurred; and also taking into account the age of the students, the school size, the administrative structure and past experiences.

3.3.5. Report findings to the Complainant in Writing Outlining the Right to Appeal to the Superintendent or Washington County School District's Board of Education: If a party to a complaint does not agree with its resolution, within 10 days of the receipt of the outcome, that party may appeal in writing to the Washington County School District’s Board of Education or Superintendent. The Board of Education and Superintendent will review the complaint, findings, and render a decision regarding the action taken by administration. At its discretion, the Board may convene a panel consisting of two board members and the Superintendent to conduct a hearing as part of the appeal process.

3.3.6. Confidentiality: In all cases, schools should make every effort to keep confidential the names of all parties involved, including the complainant, the witnesses, and the accused, except to the extent necessary to carry out an investigation or comply with the law. FERPA permits a school to disclose to the harassed student, information about the sanction imposed upon a student who was found to have engaged in harassment when the sanction directly related to the harassed student. This includes an order that the harasser stay away from the harassed student, or that the harasser is prohibited from attending school for a period of time, or transferred to other classes.

3.4. Monitoring Outcomes: Administration must monitor outcomes under the investigation findings to include the impact, if any, on the campus climate. Such consideration is intended to help the school avoid retaliation or continued violations. This is particularly important if findings of an investigation involved harassment to include sexual harassment and violence.

3.5. False Complaints: False and malicious complaints of harassment, discrimination or retaliation (as opposed to complaints that, even if erroneous, are made in good faith) by employees or students may be the subject of appropriate disciplinary action.

3.6. Expanded Review of a Complaint (Formal): Students, parents/guardians, or patrons alleging discrimination or other related violation of civil rights may also file a formal complaint at any time with the following agencies:

Utah State Office Board of Education

250 E 500 S

Salt Lake City, UT 84111

(801) 538-7500

Web: http://schools.utah.gov

Office for Civil Rights

U.S. Department of Education

400 Maryland Avenue, S.W. Washington, D.C. 20202-1100

Denver Office for Civil Rights

U.S. Department of Education

Cesar E. Chavez Memorial Building

1244 Speer Boulevard, Suite 310

Denver, CO 80204-3582

Telephone: 303-844-5695

FAX: 303-844-4303; TDD: 800-877-8339

Email: OCR.Denver@ed.gov

The right to file an independent formal complaint with the Office of Civil Rights may be done at any time and is not limited to any aspect of the Washington County grievance process.

3.7. Training:

3.7.1. 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.

3.7.2. Administrative employees who have specific responsibilities for investigating and resolving complaints shall receive training on this policy and related legal developments. 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.

References:

ADA Amendment Act of 2008, (29 C.F.R. §110 et seq.): Americans with Disabilities Act of 1973

Boy Scouts of America Equal Access Act, (34 CFR. 108 et seq.).

Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) and its implementing regulations (34 C.F.R Part 104). Discrimination on the Basis of Disability.

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).

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). Discrimination on the basis of Race, Color, or National Origin.

Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681) and its implementing regulations (34 C.F.R. Part 106): Discrimination on the basis of Gender.

Title IX: Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties (January 2001); Title IX Resource Guide (April 2015); Title IX Grievance Procedures Manual. Prohibits sexual harassment. An educational institution cannot deny or limit, on the basis of sex, the student's ability to participate in or to receive benefits, services, or opportunities in the school's program.

Office of Civil Rights Dear Colleague Letters: Equal Access (2014); First Amendment (2003); Racial Incidents and Harassment Against Students (1994); Sexual Harassment Issues (2006); Sexual Violence (2011); Retaliation (2013), available at http://www.ed.gov/ocr/letters/colleague-201304.pdf.

Utah Code Ann § 62A-4a-402 et. seq. Utah Human Services Code. Child Abuse or Neglect Reporting Requirements.

Utah Code Ann §§ 76-5-401 through 76-5-407. Utah Criminal Code. Sexual Offenses.

Utah Administrative Code R277-217, Utah Educator Standards.

Washington County Board Policy 2110: Safe Schools.

Washington County Board Policy 3510: Bullying and Hazing

Washington County Board Policy 3550: Parent Administrative Grievance Procedures

Form 555-Anti-Discrimination & Civil Rights Investigation