

MOUNT PLEASANT COTTAGE SCHOOL UNION FREE SCHOOL DISTRICT**SUBJECT: REPORTING COMPLAINTS OF DISCRIMINATION AND HARASSMENT**

Any individual who believes that he/she has been subjected to discrimination or harassment or who is made aware of and/or witnesses any possible occurrence of discrimination or harassment shall report such complaint as soon as possible after the alleged incident occurs in order to help the District effectively and promptly investigate and resolve the complaint. In order to assist in the investigation, victims and/or witnesses should document the discrimination or harassment as soon as it occurs, providing as much detail as possible. The complainant may request and use the District Sample Complaint form (see #3420F). This form may be used for all complaints, including incidents of alleged discrimination or harassment.

In investigating the complaint, the designated Compliance Officer will meet separately with the complainant and the alleged accused, and will follow applicable law and regulations as well as any applicable collective bargaining agreement(s).

All parties will be assured that complaints and discussions will remain as confidential as possible, and will be disclosed only on a "need to know" basis in order to effectively investigate the complaint and/or as mandated by law or court order. However, a written record of the investigation and any action taken will be established. Additionally, parents of students subjected to possible harassment and/or students filing a harassment complaint, as well as parents of accused students, may be notified by the appropriate administrator of such occurrence and/or allegations as warranted and in accordance with legal guidelines. If the accused student has been identified as having a disability (or is suspected of having a disability) pursuant to Section 504/Individuals with Disabilities Education Act, a student referral shall be made to the Section 504 Team/Committee on Special Education for evaluation/assessment and/or a manifestation determination, as may be applicable in accordance with state and federal law and regulations, to determine whether the student's conduct is caused or affected by his/her disability.

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

The designated Compliance official will begin investigating the allegations of harassment no later than three (3) working days following receipt of the complaint; and will report the findings of the investigation to the Superintendent no later than twenty (20) working days following receipt of the complaint. In the case of extenuating circumstances, the Compliance Officer will file a status report with the Superintendent/designee if it becomes necessary to extend the timeline for completion of the investigation. If additional time is needed for good cause, a written status report shall be submitted to all parties indicating the need for additional time.

If the complainant attempts to withdraw a complaint, the Compliance Officer will determine that the withdrawal is not caused by retaliation and then document the complainant's reasons and ask the complainant to sign the documentation. A copy of all written material pertaining to the case/investigation will be retained in a separate confidential file.

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All reports of alleged discrimination or harassment will be held confidential to the extent possible consistent with the District's legal obligations in conducting a thorough investigation and/or taking appropriate disciplinary measures. Subject to all applicable laws and collective bargaining agreements, the following guidelines shall be utilized in the investigation and resolution of discrimination complaints.

Step 1 - Informal Complaint

- 1) An employee or student who believes that he/she has been subjected to any type of discrimination or harassment or anyone who is aware of or who has knowledge of or witnesses an occurrence of discrimination or harassment may file an informal complaint by immediately notifying his/her *immediate supervisor or Principal. This may be verbal or written; however, the complainant will be encouraged to fill out a complaint form provided by the District.

*If the Building Principal/immediate supervisor is the alleged offender, then the complainant may report the harassment or discrimination to another district official or directly to the Compliance Officer. The Compliance Officer shall designate another school official who will take the place of the Building Principal/Supervisor in all applicable phases of the complaint process.

- 2) A potential employee or potential student who believes that he/she has been subjected to any type of discrimination or harassment shall immediately notify the District's Compliance Officer. Those procedures established under Step 2 - Formal Complaint will then apply. (see subheading "Step 2 – Formal Complaint" in this regulation).
- 3) Informal complaint procedures will generally take place at the building level and involve resolution steps short of a comprehensive investigation and/or formal hearing. For example, in attempting to resolve a complaint informally, the supervisor or Principal may interview the alleged harasser (discriminator), inform the alleged harasser (discriminator) of the complaint, question the harasser (discriminator) about the alleged incidents, and review the District's policy and regulations regarding harassment or discrimination.
- 4) The supervisor or Principal will inform the alleged harasser that he/she must immediately stop any offensive conduct or face appropriate disciplinary action. The supervisor or Principal will follow the provisions of any applicable collective bargaining agreement(s) throughout the course of such investigation(s).
- 5) Within twenty (20) days after receipt of the complaint the supervisor or Principal will correct the situation stated in the complaint if he/she finds the complaint valid and if the correction of the complaint is within his/her scope of authority.

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The action taken by the supervisor or Principal will be noted on the complaint form.

- a. The supervisor or Principal may consult with or seek the assistance of the Compliance Officer in resolving the complaint.
- b. If the supervisor or Principal cannot resolve the issues raised in the complaint within twenty (20) days, he/she shall notify the complainant of that fact before the expiration of the twenty (20) day period and he/she shall further indicate the approximate date on which his/her determination will be made.
- c. If resolution of the complaint is not within the scope of the authority of the supervisor or Principal, he/she shall immediately notify the complainant who may then initiate those procedures set forth in the next section if he/she so desires.
- d. If the complainant is not satisfied with the outcome or report of the supervisor or Principal, the complainant will so indicate in writing and may proceed to file a formal complaint.

Step 2 - Formal Complaint

An individual may file a formal complaint of harassment or discrimination as an initial step or as a result of an unsatisfactory resolution of an informal complaint. The formal complaint should include all applicable information as indicated in this regulation as well as any other pertinent information which may be helpful in the course of the investigation.

- 1) If the complaint was not resolved at the informal stage to the satisfaction of the complainant, he/she may within twenty (20) days of the decision of the supervisor or Principal ask that the Compliance Officer or his/her designee review the allegations raised by stating his/her reasons on the complaint form provided by the District and filing them with the Compliance Officer.
- 2) The Compliance Officer or his/her designee will review the file and if necessary conduct his/her own prompt, equitable and thorough investigation in accordance with federal or state laws and regulations and any applicable collective bargaining agreement(s). The decision of the Compliance Officer will be made in writing within twenty (20) days from presentation of the complaint to him/her unless the Compliance Officer has notified complainant that a period in excess of twenty (20) days will be needed for him/her to conduct the investigation and render his/her decision.

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- 3) If the Compliance Officer concludes that further action beyond that taken by the supervisor or Principal must be taken, he/she shall immediately notify the Superintendent so that the Compliance Officer's recommendations may be reviewed and implemented by the Superintendent.
- 4) If the formal investigation results in a finding that harassment did occur, the Compliance Officer will notify the Building Principal/Supervisor and Superintendent of his/her recommendations. If the Superintendent concurs with the report of the Compliance Officer, the Superintendent will then take prompt disciplinary action in accordance with the terms of District policy and regulations, federal and state law and regulations, and/or the applicable collective bargaining agreement. The Compliance Officer will notify the complainant and the accused, in person and in writing, as to the finding and/or course of action within twenty (20) working days following receipt of the formal complaint. If additional time is needed for good cause, a written status report shall be submitted to all parties indicating the need for additional time.
- 5) If the complainant is satisfied with the report of the Compliance Officer, the complainant will so indicate in writing. If not satisfied with the Compliance Officer's report, the complainant and/or the accused may appeal the determination to the Superintendent of Schools. The appeal should be in writing and submitted no later than ten (10) working days following receipt of the Compliance Officer's decision.

Step 3 - Appeal to the Superintendent of Schools

The Compliance Officer will inform the Superintendent of the outcome of his/her investigation. If the Superintendent of Schools issues a finding that no form of discrimination or harassment has occurred, the complainant, if not satisfied with this resolution, may appeal the decision to the Board of Education. If the complainant is satisfied with the Superintendent's finding, the complainant will so indicate in writing and the matter will be deemed closed.

The complainant and the accused will receive a copy of a report issued by the Superintendent pertaining to the investigation/outcome of the formal complaint within thirty (30) working days following receipt of the complaint. If additional time is necessary to either complete the investigation or institute disciplinary/remedial action, the Superintendent will provide all parties and the Board of Education with a written status report requesting additional time to complete the investigation.

If the Superintendent determines that corrective action is necessary, the Superintendent of Schools shall follow all applicable law and regulations, District policy and guidelines, and appropriate collective bargaining agreements in the resolution of the complaint. If the accused is not satisfied with this resolution; he/she may appeal the decision to the Board of Education within ten (10) working days following receipt of the report.

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If the Superintendent of Schools issues a finding that no harassment has occurred, the complainant, if not satisfied with this resolution, may appeal the decision to the Board of Education within ten (10) working days following receipt of the report. If the complainant is satisfied with the Superintendent's finding, the complainant will so indicate in writing.

Step 4 - Appeal to the Board of Education

In the event that a complainant and/or accused files an appeal with the Board of Education following an investigation by the Superintendent of Schools, such appeal must be submitted within ten (10) working days of receipt of the Superintendent's report. The Board of Education under the guidance of Legal Counsel will conduct a review of the case and issue a written response to the complainant and the accused following completion of the review within thirty (30) days of receipt of the complaint. If additional time is needed, a written status report shall be submitted to all parties, indicating the need for additional time.

The District shall take all appropriate measures to prevent the occurrence or continuation of any type of discrimination and shall implement remedial or corrective action where necessary.

Regardless of whether a complaint has been filed, if the District knows or has reason to know of the existence of any type of discrimination, the District shall require a prompt and thorough investigation by appropriate personnel.

Scope of Legal Action

The filing of a complaint, and/or the rendering of a decision regarding the complaint shall in no way prohibit, prevent or limit the complainant from taking appropriate legal action in accordance with state and federal law.

Corrective Action/Discipline/Penalties

Based upon the result of the District's investigation, immediate corrective action will be taken. Should the offending individual be a school employee, appropriate disciplinary measures will be applied, up to and including termination of the offender's employment, in accordance with contractual and legal guidelines.

Should the offending individual be a student, appropriate disciplinary measures will be applied, up to and including suspension, in accordance with applicable law, regulation, and the *Code of Conduct*.

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Vendors/contractors and other individuals who do business with the District, who have been found to violate the terms of the anti-harassment policy and/or regulation by engaging in prohibited conduct, will be subject to appropriate sanctions up to and including loss of District business. School volunteers who are found to have violated District policy and regulation may face loss of volunteer status.

Should the offending individual be a visitor, guest or other third party, then any corrective action deemed appropriate will be taken, including, but not limited to, expulsion from the District premises and/or school activities/events under the control and supervision of the Mount Pleasant Cottage School Union Free School District.

The application of such disciplinary measures by the District does not preclude the appropriate filing of civil and/or criminal charges as may be warranted.

Scope of Legal Action

The filing of a complaint, and/or the rendering of a decision regarding the complaint shall in no way prohibit, prevent or limit the complainant from taking appropriate legal action in accordance with state and federal law.

Prohibition of Retaliation (Commonly Known as "Whistle-Blower" Protection)

Retaliation against any individual for filing a charge of harassment or reporting allegations of harassment or discrimination is illegal and prohibited. Regardless of the stage of the investigation, the victim will be instructed by the supervisor or Principal and/or Compliance Officer to report immediately if the offensive behavior occurs again and/or if the alleged accuser retaliates against him/her. Any witnesses who cooperated in the investigation of the complaint will be similarly instructed to report to the Compliance Officer immediately as to any retaliatory action(s).

Additionally, the designated Compliance Officer will make follow-up inquiries to ensure that harassment has not resumed and that no reprisals or retaliatory behavior has occurred to those involved in the investigation. Any employee or student who retaliates against another individual shall be subject to disciplinary action, as warranted, in accordance with legal guidelines, applicable contractual mandates and/or the *Code of Conduct*.

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Finding That Harassment Did Not Occur

At any level/stage of investigation of alleged harassment, if a determination is made that harassment did not occur, the Compliance Officer will so notify the complainant, the alleged offender and the Superintendent of this determination. Such a finding does not preclude the complainant from filing an appeal pursuant to District policy or regulation and/or pursuing other legal avenues of recourse.

However, even if a determination is made that harassment did not occur, the Superintendent/designee reserves the right to initiate staff awareness and training, as applicable, to help ensure that the school community is not conducive to fostering harassment in the workplace.

In all cases, the Superintendent will inform the Board of Education of the results of each investigation involving a finding that harassment did not occur.

Knowingly Makes False Accusations

Employees and/or students who *knowingly* make false accusations against another individual as to allegations of harassment may also face appropriate disciplinary action.

District Responsibility/Training

Regardless of whether a complaint has been filed, if the District knows of the occurrence or the possible occurrence of any harassment, the District will require a prompt, equitable and thorough investigation by appropriate personnel. Even if an anonymous complaint has been filed, the District will respond to the greatest extent possible.

Principals in each school building and/or program supervisors will be responsible for informing students and staff on a yearly basis of District policy and regulations regarding the prohibition of harassment, including the procedures established for the investigation and resolution of harassment complaints, the general legal issues pertaining to harassment, and the rights and responsibilities of employees and students.

Those administrators and/or supervisors who have specific responsibilities for the investigation and resolution of harassment complaints will receive specialized training on conducting such investigations and application to applicable laws and collective bargaining agreements.

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Privacy Rights

As part of the investigation, the District has the right to search all school property and equipment including District computers. Rooms, desks, cabinets, lockers, computers, etc. are provided by the District for the use of students and staff, but the users do not have exclusive use of these locations or equipment and should not expect that materials stored therein will be private.

Dissemination of District Policy/Regulation and Evaluation

A copy of District policy and regulations pertaining to prohibition of harassment will be available upon request. A copy of District policy and regulations may be posted in various locations throughout each school building. Additionally, the District's policy and regulations will be published in appropriate school publications such as teacher/employee handbooks, student handbooks, and/or school calendars.

The Superintendent of Schools, or his/her designee(s), has a responsibility to review District policy and regulations to ensure continued effectiveness and compliance with applicable law. The Superintendent will recommend revisions as may be warranted to the Board of Education.

NOTE: Refer also to Regulations #3420R -- Non-Discrimination and Anti-Harassment Guidelines

in the School District
#3420F -- Sample Complaint Form
#6121R -- Sexual Harassment
#7551R -- Sexual Harassment of Students

