Personnel - All Employees

Anti-discrimination, Anti-harassment, and Anti-retaliation

A. **Elimination of Discrimination.**

Omaha Public Schools hereby gives this statement of compliance and intends to comply with all state and federal laws prohibiting discrimination. This school district intends to take any necessary measures to assure compliance with such laws against any prohibited form of discrimination.

Omaha Public Schools does not discriminate on the basis of race, color, national origin, religion, sex (including pregnancy), marital status, sexual orientation, disability, age, genetic information, gender identity, gender expression, citizenship status, veteran status, political affiliation or economic status in its programs, activities and employment and provides equal access to the Boy Scouts and other designated youth groups. The following individual has been designated to accept allegations regarding non-discrimination policies: Superintendent of Schools, 3215 Cuming Street, Omaha, NE 68131 (531-299-0310). The following persons have been designated to handle inquiries regarding the non-discrimination policies: Director for the Office of Equity and Diversity, 3215 Cuming St, Omaha, NE 68131 (531-299-0307).

Complaints or concerns involving discrimination or needs for accommodation or access should be addressed to the appropriate Administrator. For further information about anti-discrimination laws and regulations, or to file a complaint of discrimination with the U.S. Department of Education (OCR), please contact the OCR at One Petticoat Lane, 1010 Walnut Street, 3rd Floor, Suite 320, Kansas City, MO 64106, (816) 268-0550 (voice), Fax (816) 268-0599, (800) 877-8339 (telecommunications device for the deaf), or ocr.kansascity@ed.gov.

B. **Prohibited Harassment, Discrimination, and Retaliation of Employees and Others.**

1. **Purpose:**

Omaha Public Schools is committed to offering employment to its employees in a climate free of discrimination. Accordingly, unlawful discrimination, harassment and retaliation of any kind by District employees, including, co-workers, non-employees (such as volunteers), third parties, and others is strictly prohibited and will not be tolerated.

Harassment is a form of discrimination and includes verbal, non-verbal, written, graphic, or physical conduct relating to a person's race, color, national origin, religion, disability, age, sex (including pregnancy), or other protected category, that is sufficiently serious to deny, interfere with, or limit a person's ability to participate in or benefit from an educational or work program or activity, including, but not limited to:

a. Conduct that is sufficiently severe or pervasive to create an intimidating, hostile, or abusive educational or work environment, or

b. Requiring an individual to endure the offensive conduct as a condition of continued employment or educational programs or activities, including the receipt of aids, benefits, and services.
Educational programs and activities include all academic, educational, extracurricular, athletic, and other programs of the school, whether those programs take place in a school’s facilities, on a school bus, at a class or training program sponsored by the school at another location, or elsewhere.

Discriminatory harassment because of a person's race, color, national origin, religion, disability, age, sex, or other protected category, may include, but is not limited to:

a. Name-calling,
b. Teasing or taunting,
c. Insults, slurs, or derogatory names or remarks,
d. Demeaning jokes,
e. Inappropriate gestures,
f. Graffiti or inappropriate written or electronic material,
g. Visual displays, such as cartoons, posters, or electronic images,
h. Threats or intimidating or hostile conduct,
i. Physical acts of aggression, assault, or violence, or
j. Criminal offenses

The following examples are additional or more specific examples of conduct that may constitute sexual harassment:

a. Unwelcome sexual advances or propositions,
b. Requests or pressure for sexual favors,
c. Comments about an individual’s body, sexual activity, or sexual attractiveness,
d. Physical contact or touching of a sexual nature, including touching intimate body parts and inappropriate patting, pinching, rubbing, or brushing against another’s body,
e. Physical sexual acts of aggression, assault, or violence, including criminal offenses (such as rape, sexual assault or battery, and sexually motivated stalking), against a person’s will or where a person is incapable of giving consent due to the victim’s age, intellectual disability, or use of drugs or alcohol,

f. Requiring sexual favors or contact in exchange for aids, benefits, or services, such as awards, privileges, promotions, etc., or
g. Gender-based harassment; acts of verbal, nonverbal, written, graphic, or physical conduct based on sex or sex-stereotyping, but not involving conduct of a sexual nature.

If the District knows or reasonably should know about possible harassment, including violence, the District will conduct a prompt, adequate, reliable, thorough, and impartial investigation to determine whether unlawful harassment occurred (see section entitled “Grievance Procedures,” below), and take appropriate interim measures, if necessary. If the District determines that unlawful harassment occurred, the District will take prompt and effective action to eliminate the harassment, prevent its recurrence, and remedy its effects, if appropriate. If harassment or violence that occurs off school property creates a hostile environment at school, the District will follow this policy and grievance procedure, within the scope of its authority.
All District employees are expected to take prompt and appropriate actions to report and prevent discrimination, harassment, and retaliation by others. Employees who witness or become aware of possible discrimination, including harassment and retaliation, must immediately report the conduct to his or her supervisor or the compliance administrator designated to handle complaints of discrimination (designated compliance administrator).

2. Anti-retaliation:
The District prohibits retaliation, intimidation, threats, coercion, or discrimination against any person for opposing discrimination, including harassment, or for participating in the District's discrimination complaint process or making a complaint, testifying, assisting, or participating in any manner, in an investigation, proceeding, or hearing. Retaliation is a form of discrimination.

The District will take immediate steps to stop retaliation and prevent its recurrence against the alleged victim and any person associated with the alleged victim. These steps will include, but are not limited to, notifying employees and others, that they are protected from retaliation, ensuring that they know how to report future complaints, and initiating follow-up contact with the complainant to determine if any additional acts of discrimination, harassment, or retaliation have occurred. If retaliation occurs, the District will respond with prompt and strong responsive action up to and including termination.

3. Grievance (or Complaint) Procedures:
Employees should initially report all instances of discrimination, harassment or retaliation to their immediate supervisor or to the compliance administrator designated to handle complaints of discrimination (designated administrator). If the employee is uncomfortable in presenting the problem to the supervisor, or if the supervisor is the problem, the employee may report the alleged discrimination, harassment or retaliation (“discrimination”) to the designated administrator (such as a principal). If the complaint relates to the Superintendent of Schools, then the individual shall file a complaint with the President of the Board of Education.

Other individuals may report alleged discrimination to the designated administrator. If the designated administrator is the person alleged to have committed the discriminatory act, then the complaint should be submitted to the Superintendent for assignment. A discrimination complaint form is attached to this grievance procedure and is available in the office of each District building, on the District's website, and from the designated administrators.

District employees, supervisors and administrators must immediately report any complaints, reports, observations, or other information of alleged discrimination to the designated administrator, even if that District employee is investigating the alleged discrimination as part of the District's employee disciplinary process, and provide the complainant with information for filing a complaint of discrimination, including a complaint form if requested, and contact information for the District's designated administrator. If the District uses its disciplinary procedures to investigate and resolve an alleged discrimination complaint, those disciplinary procedures will comply with the District's standards for a prompt and equitable grievance procedure outlined in section B.2., below.
Under no circumstances will a person filing a complaint or grievance involving discrimination be retaliated against for filing the complaint or grievance.

i. **Level I (Investigation and Findings):**
Once the District receives a grievance, complaint or report alleging discrimination, harassment, or retaliation, or becomes aware of possible discriminatory conduct, the District will conduct a prompt, adequate, reliable, thorough, and impartial investigation to determine whether unlawful harassment occurred. If necessary, the District will take immediate, interim action or measures to protect the alleged victim and prevent further potential discrimination, harassment, or retaliation during the pending investigation. The alleged victim will be notified of his or her options to avoid contact with the alleged harasser, such as changing a class or prohibiting the alleged harasser from having any contact with the alleged victim pending the result of the District’s investigation. The District will minimize any burden on the alleged victim when taking interim measures to protect the alleged victim.

The District will investigate all complaints of discrimination, even if an outside entity or law enforcement agency is investigating a complaint involving the same facts and allegations. The District will not wait for the conclusion or outcome of a criminal investigation or proceeding to begin an investigation required by this grievance procedure. If the allegation(s) involve possible criminal conduct, the District will notify the complainant of his or her right to file a criminal complaint, and District employees will not dissuade the complainant from filing a criminal complaint either during or after the District’s investigation.

The District will complete its investigation within **thirty (30) working days** after receiving a complaint or report, unless extenuating circumstances exist. Extenuating circumstances may include the unavailability of witnesses due to illness or incapacitation, or additional time needed because of the complexity of the investigation, the need for outside experts to evaluate the evidence (such as forensic evidence), or multiple complainants or victims. Extenuating circumstances do not include summer vacation, and if a designated compliance administrator or investigator is unavailable, another administrator or trained employee will be designated to conduct the investigation. If extenuating circumstances exist, the extended timeframe to complete the investigation will **not exceed thirty (30) additional working days without the consent of the complainant.** Periodic status updates will be given to the parties, if necessary.

The District’s investigation will include, but is not limited to:

a. Providing the parties with the opportunity to present witnesses and provide evidence.
b. An evaluation of all relevant information and documentation relating to the alleged discriminatory conduct.
c. For allegations involving harassment, some of the factors the District will consider include: 1) the nature of the conduct and whether the conduct was unwelcome, 2) the surrounding circumstances, expectations, and relationships, 3) the degree to which the conduct affected one or more students’ education, 4) the type, frequency, and duration of the conduct, 5)
the identity of and relationship between the alleged harasser and the suspect or suspects of the harassment, 6) the number of individuals involved, 7) the age (and sex, if applicable) of the alleged harasser and the alleged victim(s) of the harassment, 8) the location of the incidents and the context in which they occurred, 9) the totality of the circumstances, and 10) other relevant evidence.

d. A review of the evidence using a “preponderance of the evidence” standard (based on the evidence, is it more likely than not that discrimination, harassment, or retaliation occurred?)

The designated compliance administrator (or designated investigator) will complete an investigative report, which will include:

a. A summary of the facts,
b. An analysis of the appropriate legal standards applied to the specific facts,
c. Findings regarding whether discrimination occurred, and
d. If a finding is made that discrimination occurred, the recommended remedy or remedies necessary to eliminate discrimination, including harassment and retaliation, prevent its recurrence, and remedy its effects, if applicable.

If someone other than the designated compliance administrator conducted the investigation, the compliance administrator will review, approve, and sign the investigative report. The District will ensure that prompt, appropriate, and effective remedies are provided if a finding of discrimination, harassment, or retaliation is made (see the Remedies section, below, for additional information about remedies). The District will maintain relevant documentation obtained during the investigation and documentation supportive of the findings and any subsequent determinations, including the investigative report, witness statements, interview summaries, and any transcripts or audio recordings, pertaining to the investigative and appeal proceedings.

The District will send concurrently to the parties written notification of the decision (findings and any remedy) regarding the complaint within thirty (30) working days after the investigation is completed.

ii. Level 2 (Appeal to the Superintendent):
If a party is not satisfied with the findings or remedies (or both) set forth in the decision, he or she may file an appeal in writing with the Superintendent within ten (10) working days after receiving the decision. The Superintendent or designee will review the appeal and the investigative documentation and decision, conduct additional investigation, if necessary, and issue a written determination about the appeal within ten (10) working days after receiving the appeal. The party who filed the appeal will be sent the Superintendent’s determination at the time it is issued, and a copy will be sent to the designated compliance administrator. [If the Superintendent is the subject of the complaint, the party will file the appeal directly with the Board.]

4. Remedies:
If the District knows or reasonably should know about possible discrimination, including harassment or violence, the District will take immediate, interim action or measures to
protect the alleged victim, ensure the safety of the school community, and prevent further potential discrimination, harassment, or retaliation during the District’s pending investigation. These interim measures will be prompt, age-appropriate, effective, and tailored to the specific situation, and may include a change in an employee's work area, prohibiting the alleged harasser from having any contact with the alleged victim pending the result of the District’s investigation, and other remedies, such as those listed below.

The District will minimize any burden on the alleged victim when taking interim measures. For instance, the District generally will not remove the alleged victim from his or her work area and allow the alleged harasser to remain. In addition, the District will ensure that the complainant is aware of his or her Title IX rights, including a strong prohibition against retaliation for reporting discrimination or harassment or cooperating with any investigation or proceeding, and any available resources, such as counseling, health, and mental health services, and the right to file a complaint with local law enforcement, if applicable.

If the District determines that unlawful discrimination or harassment occurred, the District will take prompt and effective action to eliminate the discrimination or harassment, prevent its recurrence, and remedy its effects on the complainant and others, if appropriate. The remedies will be tailored to the specific allegations and facts of each situation, including, but not limited to, the following remedies:

a. Providing an escort to ensure the complainant can move safely between activities.
b. Ensuring the complainant and alleged harasser do not attend the same activities.
c. Moving the alleged harasser to another work area within the District.
d. Providing counseling services or reimbursement, if appropriate.
e. Providing medical services or reimbursement, if appropriate.

The District may provide remedies for the broader employee work force as well, including but not limited to:

a. Offering counseling, health, mental health, or other holistic and comprehensive victim services to all employees affected by sexual harassment or sexual violence, and notifying employees of campus and community counseling, health, mental health, and other employee services.
b. Designating an individual from the District's counseling center to be “on call” to assist victims of sexual harassment or violence whenever needed.
c. Providing additional training to the District's designated compliance administrators and other employees who are involved in addressing, investigating, or resolving complaints of discrimination, harassment, and retaliation, to better respond to specific types of harassment and violence.
d. Informing employees of their options to notify proper law enforcement authorities, including school and local police, and the option to be assisted by District employees in notifying those authorities.
e. Creating a committee of employees and District officials to identify strategies for ensuring that employees:
i. Know the school's prohibition against discrimination, harassment, and retaliation.

ii. Recognize acts of discrimination, harassment (including acts of violence), and retaliation when they occur.

iii. Understand how and to whom to report any incidents of discrimination.

iv. Know the connection between alcohol and drug abuse and harassment or violence based on sex or other protected characteristics.

v. Feel comfortable that District officials will respond promptly and equitably to reports of discrimination, harassment (including violence) and retaliation.

f. Conducting periodic assessments of employee activities to ensure that the practices and behavior of employees do not violate the District’s policies against anti-discrimination, anti-harassment, and anti-retaliation.

g. Conducting in conjunction with employees, a “climate check” to assess the effectiveness of efforts to ensure that the District is free from discrimination, harassment (including violence), and retaliation, and using the resulting information to inform future proactive steps that will be taken by the District.

In addition to these remedies, the District may impose disciplinary sanctions against the employee who discriminated, harassed, or retaliated against the complainant, up to and including possible termination or cancellation of employment.

5. **Confidentiality:**

The identity of the complainant will be kept confidential to the extent permitted by state and federal law. The District will notify the complainant of the anti-retaliation provisions of applicable laws and that the District will take steps to prevent retaliation and will take prompt and strong responsive actions if retaliation occurs.

If a complainant requests confidentiality or asks that the complaint not be pursued, the District will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or the request not to pursue an investigation, as long as doing so does not prevent the District from responding effectively to the harassment and preventing harassment of other people. If a complainant insists that his or her name or other identifiable information not be disclosed to the alleged perpetrator, the District will inform the complainant that its ability to respond may be limited. Even if the District cannot take disciplinary action against the alleged harasser, the District will pursue other steps to limit the effects of the alleged harassment and prevent its recurrence, if warranted.

At the same time, the District will evaluate a confidentiality request in the context of its responsibility to provide a safe and nondiscriminatory environment for all people. Thus, the District may weigh the confidentiality request against factors such as: the seriousness of the alleged harassment, the complainant's age; whether there have been other harassment complaints about the same individual and the alleged harasser’s rights to receive information about the allegations if the information is maintained by the District.
In some cases, the District may be required to report alleged misconduct or discrimination, such as sexual harassment involving sexual violence, to local law enforcement or other officials, and the District may not be able to maintain the complainant's confidentiality. The District will inform the complainant that it cannot ensure confidentiality, if applicable.

6. **Training:**

The District will ensure that District employees, including but not limited to officials, administrators, teachers, substitute teachers, counselors, nurses and other health personnel, coaches, assistant coaches, paraprofessionals, aides, bus drivers, and school law enforcement officers, are adequately trained so they understand and know how to identify acts of discrimination, harassment, and retaliation, and how to report it to appropriate District officials or employees. This training will include, at a minimum, the following areas:

a. The current legal standards and compliance requirements of anti-discrimination, anti-harassment, and anti-retaliation federal, state, and any local laws and regulations, including several specific examples of discrimination, harassment (including acts of violence because of a person's sex or other protected characteristics), and retaliation.

b. The District's current anti-discrimination, anti-harassment, and anti-retaliation notice, policies, grievance procedure, and discrimination complaint form, including the specific steps and timeframes of the investigative procedures, and the District's disciplinary procedures.

c. Identification of the District's designated compliance administrators and their job responsibilities.

d. Specific examples and information regarding how to report complaints or observations of discrimination, harassment, or retaliation to appropriate District officials or employees. In addition, the District will emphasize that employees, students, third parties, and others should not be deterred from filing a complaint or reporting discrimination. For instance, if a student is the victim of sexual violence, a form of sexual harassment, but the student is concerned that alcohol or drugs were involved, school staff should inform the student that the District's primary concern is student safety, that any other rules violations will be addressed separately from the sexual violence allegation, and that the use of alcohol or drugs never makes the victim at fault for sexual violence.

e. Potential consequences for violating the District's anti-discrimination, anti-harassment, and anti-retaliation policies, including discipline.

f. Potential remedies, including immediate, interim remedies, to eliminate the discrimination, harassment, and retaliation, prevent its recurrence, and remedy its effects.

g. A description of victim resources, including comprehensive victim services, to address acts of discrimination and harassment, including acts of violence because of a person's sex or other protected characteristics, and a list of those resources for distribution to trainees.

In addition, the District shall ensure that employees designated to address or investigate discrimination, harassment, and retaliation, including designated compliance
administrators, receive additional specific training to promptly and effectively investigate and respond to complaints and reports of discrimination, and to know the District's grievance procedures and the applicable confidentiality requirements.

7. **Designated Compliance Administrators:**

Designated compliance administrators will be responsible for:

a. Coordinating efforts to comply with anti-discrimination, anti-harassment, and anti-retaliation laws and regulations.

b. Coordinating and implementing training for employees pertaining to anti-discrimination, anti-harassment and anti-retaliation laws and regulations, including the training areas listed above.

c. Investigating complaints of discrimination (unless the administrator designates other trained individuals to investigate).

d. Monitoring substantiated complaints or reports of discrimination, as needed (and with the assistance of other District employees, if necessary), to ensure discrimination or harassment does not recur, and that retaliation conduct does not occur or recur.

e. Overseeing discrimination complaints, including identifying and addressing any patterns or systemic problems, and reporting such patterns or systemic problems to the Superintendent and the Board of Education.

f. Communicating regularly with the Office of Community, School, & Family Engagement investigating cases and providing current information to them pertaining to anti-discrimination, anti-harassment, and anti-retaliation standards and compliance requirements.

g. Reviewing all evidence in harassment or violence cases brought before the District's disciplinary committee or administrator to determine whether the complainants are entitled to a remedy under anti-discrimination laws and regulations that was not available in the disciplinary process.

h. Ensuring that investigations address whether other employees may have been subjected to discrimination, including harassment and retaliation.

i. Determining whether District employees with knowledge of allegations of discrimination, including harassment and retaliation, failed to carry out their duties in reporting the allegations to the designated compliance administrator and responding to the allegations.

j. Recommending changes to this policy and grievance procedure.

k. Performing other duties as assigned.

The designated compliance administrators will not have other job responsibilities that may create a conflict of interest with their administrator responsibilities.

8. **Preventive Measures:**

The District will publish and widely distribute on an ongoing basis a notice of nondiscrimination (notice) in electronic and printed formats, including prominently displaying the notice on the District's website and posting the notice at each building in the District. The District also will designate an employee to coordinate compliance with anti-discrimination laws (see Designated Compliance Administrator section, above, for further information on compliance administrator), and widely publish and disseminate this grievance procedure, including prominently posting it on the District’s website, at
each building in the District, reprinting it in District publications, such as handbooks, and sending it electronically to members of the school community. The District will provide training to employees at the beginning of each academic year in the areas (B.6.a-g) identified in the Training section, above.

The District also may distribute specific harassment and violence materials (such as sexual violence), including a summary of the District’s anti-discrimination, anti-harassment, and anti-retaliation policy and grievance procedure, and a list of victim resources, during events such as school assemblies and back to school nights, if recent incidents or allegations warrant additional education to the school community.
Notice of Nondiscrimination

Omaha Public Schools does not discriminate on the basis of race, color, national origin, religion, sex (including pregnancy), marital status, sexual orientation, disability, age, genetic information, gender identity, gender expression, citizenship status, veteran status, political affiliation or economic status in its programs, activities and employment and provides equal access to the Boy Scouts and other designated youth groups. The following individual has been designated to address inquiries regarding the non-discrimination policies: Superintendent of Schools, 3215 Cuming Street, Omaha, NE 68131 (531-299-0310). The following persons have been designated to handle inquiries regarding the non-discrimination policies:

   Students: Sharif Liwaru, Director of Equity and Diversity, 3215 Cuming Street, Omaha, NE 68131 (531) 299-0307 (sharif.liwaru@ops.org).

   Employees and Others: Charles Wakefield, Chief Human Resources Officer, 3215 Cuming Street, Omaha, NE 68131 (531) 299-0240 (charles.wakefield@ops.org).

Complaints or concerns involving discrimination or needs for accommodation or access should be addressed to the appropriate Administrator. For further information about anti-discrimination laws and regulations, or to file a complaint of discrimination with the Office for Civil Rights in the U.S. Department of Education (OCR), please contact the OCR at One Petticoat Lane, 1010 Walnut Street, 3rd Floor, Suite 320, Kansas City, MO 64106, (816) 268-0550 (voice), Fax (816) 268-0599, (800) 877-8339 (telecommunications device for the deaf), or ocr.kansascity@ed.gov.
Complaint Form

Discrimination, Harassment or Retaliation

Omaha Public Schools does not discriminate on the basis of race, color, national origin, religion, sex (including pregnancy), marital status, sexual orientation, disability, age, genetic information, gender identity, gender expression, citizenship status, veteran status, political affiliation or economic status in its programs, activities and employment and provides equal access to the Boy Scouts and other designated youth groups. This complaint form is to be used when a person has a complaint related to discrimination, harassment or retaliation on such bases in regard to employment or the programs and activities of the school district.

Refer to Board Policy 4003 for the particulars of the complaint and grievance process. You may attach additional materials to this form if needed.

The following individual has been designated to address inquiries regarding the non-discrimination policies: Superintendent of Schools, 3215 Cumming Street, Omaha, NE 68131 (531-299-0310). The following persons have been designated to handle inquiries regarding the non-discrimination policies:

Charles Wakefield, Chief Human Resources Officer, 3215 Cumming Street, Omaha, NE 68131 (531) 299-0240 (charles.wakefield@ops.org).

Name: ___________________________ Date: ___________________________

(1) Description of the complaint: ________________________________

(2) Names of any witnesses to the matter being complained about: ________________________________

(3) Identify and attach any document supporting the complaint: ________________________________

(4) Confidentiality: I ___ do ___ do not give consent to my identity being shared with the person(s) against whom I am complaining. If I do not give consent, I understand that the investigation may be hindered, but that the District will nonetheless investigate and take prompt and effective action to remediate the concerns I have raised, if appropriate.

(5) Relief requested (what I want done in response to this complaint):

__________________________________________

The undersigned states: The facts in this complaint are true to the best of my knowledge, information and belief. I give permission for an investigation to be made into this complaint. I understand that the District will take steps to prevent me being retaliated against for filing this complaint, that I am to notify the District if any such retaliation occurs, and that the District will take prompt and strong responsive action if retaliation occurs.

Received by: ___________________________ Date: ___________________________

Signature: ___________________________