

SECTION: G - Employees
POLICY TITLE: Employee Civil Rights Discrimination and Harassment
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1. PURPOSE AND PHILOSOPHY

- 1.1. Nebo School District is committed to maintaining an environment in which all employees are treated with respect and dignity. This includes ensuring that employees are not subject to Harassment or Discrimination on the basis of race, color, religion, sex, sexual orientation, gender identity, national origin, disability, or any other classification protected by law.
- 1.2. The Nebo School District Civil Rights Coordinator serves as the Title Coordinator for employee protection under the laws identified herein. All employee civil rights issues may be directed to the Civil Rights Coordinator.

David Gneiting
Civil Rights Coordinator
Nebo School District
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Spanish Fork, Utah, 84660
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All issues related to physical barriers to building access and physical barriers to educational programs, activities, events, and services may be directed to the Nebo School District Risk Manager.

**Risk Manager
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350 South Main Street
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Telephone: (801) 354-7440**

- 1.3. Discrimination, Harassment, and Sexual Harassment, as defined herein, are prohibited by state and federal law. Laws governing Discrimination, Harassment, and Sexual Harassment include but are not limited to the following.
- 1.3.1. Title IX of the Education Amendments of 1972 (Title IX) provides that “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance...” [20 U.S.C. § 1681\(a\)](#). Sexual harassment under Title IX is governed by [Nebo School District Policy GBEBB, Employee Sexual Harassment](#).
 - 1.3.2. Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973 (Section 504) provide that “No otherwise qualified individual with a disability . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” [29 U.S.C. § 794\(a\)](#). [Nebo School District Policy GBEG, Workplace Accommodations for Employees with Disabilities](#) outlines procedures for identifying disabilities and requesting reasonable accommodations.
 - 1.3.3. Title VI of the Civil Rights Act of 1964 (Title VI) provides that “No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” [42 U.S.C. § 2000d](#).
 - 1.3.4. Title VII of the Civil Rights Act of 1964 (Title VII) provides that “It shall be an unlawful employment practice for an employer- (1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual’s race, color, religion, sex, or national origin; or (2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual’s race, color, religion, sex, or national origin.” [42 U.S.C. § 2000e-2](#).
 - 1.3.5. The Age Discrimination in Employment Act of 1967 (ADEA) prohibits employment discrimination based on age. It provides protections to individuals who are at least 40 years old and applies to hiring and firing decisions, adverse employment actions, and the provision of compensation and benefits. [29 U.S.C. § 621 et seq.](#)
 - 1.3.6. The Older Worker’s Benefit Protection Act (OWBPA) was a 1990 amendment to the ADEA that clarified the protections given to older individuals in regard to employee benefit plans. [29 U.S.C. § 621 et seq.](#)
 - 1.3.7. The Equal Pay Act, (EPA), was a 1963 amendment to the Fair Labor Standards Act (FLSA) that prohibits wage discrimination between employees on the basis of sex for substantially equal work. [29 U.S.C. § 206\(d\)](#).
 - 1.3.8. The Pregnancy Discrimination Act was a 1978 amendment to Title VII to include pregnancy-based discrimination. The prohibition of discrimination extends to pregnancy, childbirth, and related medical conditions.
 - 1.3.9. The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) grants veterans certain rights because of their military service. [38 U.S.C. § 4301, et seq.](#)

1.3.10. The Utah Antidiscrimination Act of 1965 prohibits employment discrimination on the basis of race, color, religion, sex, age (over 40), national origin, disability, sexual orientation, gender identity, pregnancy, childbirth, or pregnancy-related conditions. The law also provides that employees may express religious and moral beliefs and commitments in the workplace in a reasonable manner and that employers may not discharge, demote, refuse to hire, retaliate, or discriminate against an individual based on expressions of religious, political, or personal convictions, including convictions about marriage, family, or sexuality, outside of the workplace. [UTAH CODE ANN. § 34A-5-101 et seq.](#)

2. SCOPE

- 2.1.** This policy is intended to protect District employees against Discrimination and Harassment in the workplace, whether by supervisors, co-workers, students, volunteers, or others under the District's control. While this policy thus prohibits employees from harassing and discriminating against other employees, all District personnel are prohibited from engaging in Discrimination and Harassment against others, especially students, as set forth in [Nebo School District Policy JDC, *Student Discrimination and Harassment*](#).
- 2.2.** Bullying, cyber-bullying, harassment, hazing, and retaliation that are not based on one of the protected classifications found in subsection 1.3 are governed by [Nebo School District Policy JDD/GBEA, *Prohibition of Bullying, Hazing, and Retaliation*](#). However, the complaint and investigation procedures in Sections 7 and 8 of this Policy GBEB may be followed to determine and remedy violations of Policy JDD/GBEA.

3. POLICY

- 3.1.** The District prohibits system-wide Discrimination of employees, both through disparate treatment and disparate impact, in its programs, offerings, facilities, rules, policies, and practices.
- 3.2.** The District prohibits sexual harassment of employees as outlined in [Nebo School District Policy JDCB/GBEBB, *Sexual Harassment*](#).
- 3.3.** The District prohibits Discrimination and Harassment of its employees, as defined and outlined herein, by other employees, students, volunteers, or other persons at school or at school-related activities and events.
- 3.4.** The District shall not terminate, discharge, or demote, or refuse to hire or promote any individual, or retaliate against, harass, or otherwise discriminate against any qualified individual with respect to compensation, terms, conditions, or privileges of employment, because of that individual's race, color, religion, sex, sexual orientation, gender identity, national origin, age, disability, or other legally protected classification, including because the individual breastfeeds or expresses milk in the workplace.
- 3.5.** The District shall not limit, segregate, or classify its employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect their status as employees because of the employees' race, color, religion, sex, national origin, age, disability, or other legally protected classification.
- 3.6.** The District encourages all victims of Discrimination and Harassment, and all persons with knowledge of Discrimination and Harassment, to report it immediately as described in Section 7 below.
- 3.7.** The District prohibits retaliatory behavior or action against persons who complain, testify, assist, or otherwise participate in the complaint process established pursuant to this policy or by any administrative directive.
- 3.8.** The District will promptly investigate all verbal and written complaints of Discrimination and Harassment and will take prompt corrective action to end behavior prohibited by this policy.

4. DEFINITIONS

- 4.1. **“Discrimination”** includes, but is not limited to, conduct that disadvantages persons based upon race, color, religion, national origin, disability, or any other classification protected by law.
- 4.2. **“Harassment”** includes, but is not limited to, any behavior, expression, or activity that stigmatizes or victimizes individuals or groups of people because of their race, color, religion, national origin, disability, or any other classification protected by law, and that:
- 4.2.1. Involves an express or implied threat which adversely affects the terms and conditions of an employee’s employment;
 - 4.2.2. Has the purpose or effect of adversely interfering with an employee’s employment or personal safety; or
 - 4.2.3. Creates an intimidating, hostile, demeaning, or offensive work environment wherein the terms or conditions of employment are altered.

5. HARASSMENT AND DISCRIMINATION PROHIBITED

Types of conduct that are prohibited in the District and that may, upon examination of the totality of the circumstances, constitute Discrimination or Harassment based upon race, color, religion, national origin, disability, or other classification protected by law (excluding sexual harassment as defined in [Nebo School Policy JDCB/GBEBB, Sexual Harassment](#)) include, but are not limited to:

- 5.1. Programs, offerings, or facilities that are inaccessible to employees due to a protected classification, and rules, policies, or practices that exclude or deny a benefit to employees based on a protected classification;
- 5.2. Threatening or intimidating conduct directed at an employee because of the employee’s race, color, religion, national origin, physical or mental disability, or other classification protected by law;
- 5.3. Epithets, slurs, negative stereotypes, name calling, verbal abuse, derogatory comments, degrading descriptions, and hostile acts which are based upon an employee’s race, color, religion, national origin, physical or mental disability, or other classification protected by law;
- 5.4. Verbal, written, or graphic material containing comments or stereotypes aimed at degrading members of protected classes;
- 5.5. Aggressive conduct towards an employee motivated by race, color, religion, national origin, physical or mental disability, or other classification protected by law;
- 5.6. Graffiti containing offensive or derogatory language, symbols, or pictures in the context any of the legally protected classifications;
- 5.7. Any unwelcome communication (whether written, verbal, or sent by electronic or other means) that is offensive or degrading and motivated by an employee’s race, color, religion, national origin, physical or mental disability, or other classification protected by law;
- 5.8. Jokes, notes, stories, drawings or pictures, gestures, or the display or distribution of offensive or degrading material based upon any of the legally protected classifications;
- 5.9. Displaying words, pictures, or symbols on clothing that are offensive or degrading based upon any of the legally protected classifications; or
- 5.10. Engaging in any of the foregoing types of discriminatory or harassing behavior outside the workplace, but which materially disrupt the educational environment at school.

6. ACCOMMODATIONS FOR EMPLOYEES

- 6.1. Qualified individuals with disabilities, as defined in the ADA, may request reasonable workplace accommodations. Such requests should be made and processed in accordance with [Nebo School District Policy GBEG, Workplace Accommodations for Employees with Disabilities](#). Administrators and supervisors who become aware of a request or apparent need for accommodation due to physical or mental impairment shall notify the Director of Human Resources.
- 6.2. Employees requiring reasonable accommodations for their religious beliefs and practices may request such accommodations from the Director of Human Resources. Administrators and supervisors who become aware of a request or apparent need for religious accommodation shall notify the Director of Human Resources.
- 6.3. The District shall accommodate employees who breastfeed or express milk (hereafter referred to as “employee” or “employees” in this subsection) by providing the following:
 - 6.3.1. Reasonable breaks each time an employee needs to breastfeed or express milk for one year after the birth of the employee’s child.
 - 6.3.1.1. The employee’s supervisor shall consult with the employee to determine the frequency and duration of such breaks.
 - 6.3.1.2. These breaks shall coincide, to the extent possible, with any other breaks already provided to the employee.
 - 6.3.2. A location for the employee to breastfeed or express milk. This room shall:
 - 6.3.2.1. Not be a bathroom or bathroom stall;
 - 6.3.2.2. Be maintained in a clean and sanitary condition;
 - 6.3.2.3. Provide privacy shielded from the view of or intrusion of coworkers or the public;
 - 6.3.2.4. Be available at the times and for a duration required by the employee as determined in the consultation with the employee’s supervisor (see 8.3.1.1.); and
 - 6.3.2.5. Have an electrical outlet.
 - 6.3.3. Access to a clean and well-maintained refrigerator or freezer for the temporary storage of the employee’s breast milk.
- 6.4. The District need not comply with subsection 6.3 if it causes significant difficulty or expense compared to the size, financial resources, nature, and structure of the District’s operations.

7. COMPLAINT PROCEDURE

- 7.1. Reporting
 - 7.1.1. Employees who believe they have been subjected to Discrimination or Harassment, including employees who believe that, due to a protected classification, they have been excluded from or denied the benefit of a program, offering, or facility, or that a school or District rule, policy, or practice has excluded or denied them a benefit, shall immediately file a complaint as described in this section. For purposes of this policy, the term “conduct” includes a school or District rule, policy, or practice.
 - 7.1.2. Employees who observe Discrimination or Harassment in the workplace are encouraged to report it to their administrator or supervisor. Complaints may also be

filed by parents, students, or others who have reason to believe an employee has been subjected to Discrimination or Harassment.

- 7.1.3. An employee in a supervisory role over other employees who has reason to believe an employee has been subjected to Discrimination or Harassment at work shall report it to the Civil Rights Coordinator so that an investigation may commence as described in Section 8 of this policy.

7.2. Complaint Process

- 7.2.1. Employees who believe they have been subjected to conduct constituting Discrimination or Harassment are encouraged, but not required, to confront the respondent and tell him or her to stop the conduct because it is unwelcome.

- 7.2.2. The employee shall report the conduct to his or her principal or department supervisor using the process outlined below.

- 7.2.2.1. The employee should document the conduct using the Employee Civil Rights Harassment Complaint form (Complaint Form); however, verbal reports should also be investigated.

- 7.2.2.2. If the respondent is the employee's principal or department supervisor, the employee shall report the conduct to the Civil Rights Coordinator at the address and phone number listed in Section 1 of this policy.

- 7.2.3. Once a complaint has been received by the principal/supervisor or by the Civil Rights Coordinator, an investigation will begin as described in Section 8. The employee making the complaint may be interviewed throughout the investigation for additional information. The employee will be notified when the investigation is completed.

7.3. Substance of Complaint

Complaints of Discrimination or Harassment, whether made verbally, using the Complaint Form, or in some other way, must include the following information:

- 7.3.1. Name, home address, email address, and home and work telephone numbers of person making the complaint;
- 7.3.2. Date(s) of incident(s) giving rise to the complaint;
- 7.3.3. Name(s) of respondent(s);
- 7.3.4. Description of the conduct or incident(s) giving rise to the complaint;
- 7.3.5. Description of the harm caused by the incident, including any allegations of official employment action, hostile work environment, and other adverse effects on the employee; and
- 7.3.6. Description of the remedy sought. Providing a description of the remedy sought does not confer authority on the complainant to determine the discipline imposed on the respondent. The imposition of remedies, including any disciplinary action, lies only within the authority and sole discretion of the District and may not be divested to others.

8. INVESTIGATION

- 8.1. The procedures outlined in this section are detailed and constitute the recommended best practice. Minor omissions and other procedural inconsistencies do not invalidate an otherwise equitable investigation. Investigators must be flexible and adapt to the circumstances of each complaint.

- 8.2.** Throughout the investigation the investigator shall monitor whether ongoing conduct or retaliation occurs in violation of this policy. If it does, the investigator shall notify applicable administrators who shall ensure that prompt and appropriate action is taken and documented as part of the investigation. The investigator shall keep a record of this information and continue this follow-up as necessary.
- 8.3.** For minor incidents, and only when the complainant and the respondent agree, the investigator may arrange for them to resolve the complaint informally. The complainant shall never be asked to resolve the complaint directly with the respondent unless accompanied by the investigator.
- 8.4. Commencing an Investigation**
- 8.4.1.** An investigation should begin when an employee who supervises other employees becomes aware of an allegation of, or conduct that may constitute, Discrimination or Harassment against an employee. Such conduct is typically made known when a Complaint Form is received but may also be made known through a variety of other means, including verbal complaints by employees, notice from a parent or student, direct observation, or as facts are disclosed during normal disciplinary proceedings. When an employee in a supervisory position becomes aware of conduct that may be in violation of this policy, he or she shall ensure that the Civil Rights Coordinator is aware of the potential violation.
- 8.4.2.** The Civil Rights Coordinator shall notify and consult with the complainant's direct supervisor, the Director of Human Resources, and any other applicable administrator, and determine whether to open an investigation.
- 8.4.2.1.** If the complaint alleges facility access discrimination based on disability, notice and consultation should include the District Risk Manager.
- 8.4.2.2.** If the respondent is a student, notice and consultation should include the applicable Director of Secondary, Elementary, or Special Education.
- 8.4.3.** If the decision is to open an investigation, the Civil Rights Coordinator or Human Resource Officer shall serve as the primary investigator. If neither is available, the Civil Rights Coordinator may select from among the following secondary investigators, as long as the individual selected has received training on how to conduct an investigation under this policy:
- 8.4.3.1.** Human resource coordinators;
- 8.4.3.2.** School Services Coordinator;
- 8.4.3.3.** Junior high/middle school supervisor;
- 8.4.3.4.** Elementary education supervisor.
- 8.4.3.5.** Department supervisor or other school administrator.
- 8.4.4.** The investigator should begin each investigation by documenting the type of conduct on the Employee Civil Rights Harassment Investigator Checklist (Checklist) and creating an investigation file. The investigator completes the Checklist as the investigation proceeds.
- 8.4.5.** The investigator will determine whether supportive measures need to be taken such as separating the complainant from the respondent pending the outcome of the investigation. If necessary, the investigator will recommend or implement appropriate supportive measures to protect the complainant from continued Discrimination or Harassment.

- 8.4.6.** If the investigator begins an investigation before receiving a Complaint Form, he or she shall obtain a completed and signed Complaint Form during the interview described below. If the age or ability of the complainant prevents him or her from completing and signing a Complaint Form, the investigator shall complete and sign the form.
- 8.4.7.** The investigator shall refer the matter to law enforcement authorities where appropriate or required by law.
- 8.4.8.** The investigator should communicate to the complainant that the school or District will investigate the complaint. The investigator shall instruct the complainant to report immediately if the objectionable behavior occurs again or if the respondent retaliates against him or her.

8.5. Investigative Procedures

Both site-level and District-level investigations should include the following steps. If an investigation is reassigned to a new investigator after it has begun, the new investigator shall gather all evidence and information from the previous investigator. The new investigator may, but is not required to, repeat interviews or other investigative procedures conducted by the previous investigator.

8.5.1. Interviews

- 8.5.1.1.** Each of the following persons should be interviewed, and a record made of the conversations.
 - 8.5.1.1.1.** The complainant. The complainant may be accompanied by an adult representative, including legal counsel or a member of an employee association. The complainant may present evidence supporting the complaint. If the complainant has not already completed the Complaint Form, the investigator shall complete it based on information gathered in the interview.
 - 8.5.1.1.2.** The person making the complaint, if different than the complainant.
 - 8.5.1.1.3.** The respondent, who is the person alleged to have committed the Discrimination or Harassment, and if a student, his/her parent or legal guardian. The respondent may be accompanied by an adult representative, including legal counsel. The respondent may present evidence refuting the allegations set forth in the complaint. The respondent may use the District's Employee Civil Rights Harassment Response form.
 - 8.5.1.1.4.** Anyone who witnessed the alleged conduct. The investigator should gather a signed witness statement from each witness using the Employee Civil Rights Harassment Witness Statement form (Witness Statement).
 - 8.5.1.1.5.** Anyone mentioned as having related information. The investigator should document all conversations related to the alleged incident.
- 8.5.1.2.** The investigator may have additional conversations with any of the individuals listed in subsection 8.3.2.1 to ensure that all relevant evidence has been gathered and clarified.

8.5.2. Preservation of Evidence

8.5.2.1. The investigator should gather and preserve evidence, including video footage from surveillance cameras, photos, physical evidence, documents, correspondence, and any relevant electronic information such as text messages, videos, and social media postings.

8.5.2.2. Evidence should be preserved in the investigative file.

8.5.3. Evaluation of Evidence

8.5.3.1. The investigator shall consider all the evidence, including the credibility of all statements, and determine which facts are true. The determination should be outlined as findings of fact in the written Report and Decision described below. In determining findings of fact, the investigator should consider the following:

8.5.3.1.1. Credibility of statements made by the persons interviewed;

8.5.3.1.2. Corroborating evidence;

8.5.3.1.3. The details and consistency of each person's account;

8.5.3.1.4. Evidence of any past violations of this policy by the respondent;

8.5.3.1.5. Evidence of any false complaints; and

8.5.3.1.6. Any other relevant information.

8.5.3.2. The investigator applies the findings of fact to District policy and makes a conclusion as to whether any policy provision has been violated. The conclusions are outlined in the written Report and Decision.

8.5.4. Report and Decision

8.5.4.1. The investigator shall prepare a written report and decision of the investigation. The report should be completed using the District's Employee Civil Rights Harassment Report and Decision form. The report should be maintained by the Civil Rights Coordinator. If the respondent is a student, a copy of the report shall be given to the Coordinator of Student Services. The report must include the following:

8.5.4.1.1. A description of the complaint;

8.5.4.1.2. A description of the response;

8.5.4.1.3. A list of specific sections of Nebo School District policies that are alleged to have been violated or that the alleged conduct, if true, would violate;

8.5.4.1.4. A detailed description of the investigation, including names and dates of individuals interviewed; receipt of written statements; and evidence considered, including video and audio recordings, correspondence, etc.;

8.5.4.1.5. Findings of fact. This section should describe with sufficient detail the events and actions found by the investigator to be true. It should include relevant facts such as age, gender, race, or disability of complainants and respondents;

- 8.5.4.1.6.** Conclusions as to whether Nebo School District policy was violated. If the investigator concludes that a policy violation has occurred, this section should state the specific policy section and which facts constitute a violation;
 - 8.5.4.1.7.** Recommendations to address the effects on the complainant and school environment; and
 - 8.5.4.1.8.** Recommendations for the imposition of disciplinary action on the respondent and for deterrence of future violations. If the investigator concludes that a violation of policy has occurred, and if the investigator is authorized to impose discipline on the respondent, the report shall indicate the discipline imposed. If the investigator is not authorized to impose discipline, the report shall indicate whether disciplinary action is recommended. The discipline and remedies should be commensurate with the severity of the conduct.
- 8.5.4.2.** To judge the severity of any violation of this policy, the investigator should consider the following:
- 8.5.4.2.1.** How the misconduct affected the terms and conditions of employment of one or more employees;
 - 8.5.4.2.2.** The type, frequency, and duration of the misconduct;
 - 8.5.4.2.3.** The number of persons involved;
 - 8.5.4.2.4.** The age and gender of the respondent;
 - 8.5.4.2.5.** The complainant(s) of Discrimination/Harassment;
 - 8.5.4.2.6.** The place and situation where the incident(s) occurred;
 - 8.5.4.2.7.** Other incidents at the school or school-related activities and events, including incidents of Discrimination/Harassment; and
 - 8.5.4.2.8.** Any other pertinent information applicable to the particular situation.
- 8.5.5.** If the allegations are substantiated, the investigator shall ensure that the behavior and resulting disciplinary action is documented in the appropriate student or employee file, including in the Student Information System.

8.6. Notice to Parties

At the conclusion of the investigation, the investigator shall notify the complainant and the respondent of the outcome of the investigation. The notice shall be in writing and shall be sent to both parties at the same time. Confidential information should be redacted from notices and reports sent to the parties. A modified version of the report prepared under subsection 8.3.5.2 may be sent to the parties in accordance with the following provisions:

- 8.6.1.** The complainant is entitled to know only such disciplinary action taken against the respondent that is directly related to the complainant.
- 8.6.2.** The respondent should not be notified of the steps taken to address the effects on the complainant.
- 8.6.3.** Both parties should be given a brief summary of the investigative steps, the findings of fact, and the conclusions.

8.7. Appeal of Decision.

Investigative procedures conducted under this policy may be appealed by both complainants and respondents. The purpose of an appeal under this section is to determine whether the investigative procedures outlined in this policy were followed. An appeal may also be filed to introduce new evidence not available during the investigation. If an appeal does not introduce new evidence or allege a violation of the investigative procedures of this policy, it will be denied. Disagreement with the outcome of an investigation or with an investigator's interpretation of the facts is not grounds for an appeal under this policy.

8.7.1. Students who have been disciplined as a result of an investigation under this policy may appeal in accordance with [Nebo School District Policy JD, Student Conduct and Discipline](#). Any hearing is limited to determining whether the investigative procedures were followed or whether new evidence has become available.

8.7.2. Employees who have been disciplined as a result of an investigation under this policy may appeal in accordance with the grievance procedures outlined in the applicable employee handbook. The grievance process must begin within fifteen (15) days of the employee's receipt of the decision and report under this policy.

8.7.3. Complainants under this policy may appeal in accordance with the grievance procedures outlined in the applicable employee handbook.

8.7.3.1. If the investigation under this policy was conducted by the Director of Human Resources, the Complainant's appeal begins with the Level One grievance procedure, which requires a written grievance filed with the Assistant Superintendent within fifteen (15) days of the Complainant's receipt of the decision and report under this policy.

8.7.3.2. If the investigation was completed by someone other than the Director of Human Resources, the Complainant's appeal begins with an informal hearing with the Director of Human Resources as provided in the applicable employee handbook and which must be requested within fifteen (15) days of the Complainant's receipt of the decision and report under this policy.

9. CONFIDENTIALITY

It is District policy to respect, as far as possible, the privacy and anonymity of all parties and witnesses to complaints brought under this policy. However, because an individual's right to confidentiality must be balanced with the District's obligations to cooperate with law enforcement, government agency investigations, or legal proceedings, or to investigate and take necessary action to resolve a complaint, the District retains the right to disclose the identity of parties and witnesses to complaints in appropriate circumstances, and for other good reasons that apply to the particular situation. The investigator also may discuss the complaint with one or more of the following persons:

9.1. The Superintendent, Director of Human Resources, Civil Rights Coordinator, Coordinator of Student Services, Director of Elementary Education, Director of Secondary Education, Director of Special Education / Federal Programs, Director of Operations, District Legal Counsel, or other applicable school or District administrator;

9.2. The parent/legal guardian of a student witness or respondent; and

9.3. Law enforcement agencies where the investigator has reasonable suspicion that the alleged Discrimination or Harassment involves criminal activity.

10. RETALIATION PROHIBITED

Retaliation against any person who has filed a complaint, or has testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this policy is prohibited, and therefore, subject to disciplinary action. Retaliation may include, but is not limited to, continued harassment, threats, taunting, spreading rumors, unauthorized disclosure of the details of an investigation,

ostracism, assault, destruction of property, or other negative conduct toward participants in response to an investigation and the events causing it. Anyone found to have engaged in retaliation will be subject to disciplinary action. Participants in an investigation, including complainants, respondents, and witnesses, must report to the investigator any conduct that might reasonably constitute retaliation.

11. DISCIPLINE AND REMEDIAL ACTION

- 11.1.** Any student who engages in Discrimination or Harassment against an employee is in violation of this policy and shall be subject to disciplinary action consistent with [Nebo School District Policy JD, Student Conduct and Discipline](#). Disciplinary action may include, but is not limited to, suspension, expulsion, exclusion or loss of extracurricular activities, probation, or alternate educational placement. In imposing such discipline, all facts and circumstances of the incident(s) shall be taken into account.
- 11.2.** Any employee who engages in Discrimination or Harassment against another employee is in violation of this policy and shall be subject to disciplinary action consistent with [Nebo School District Policy GCPD, Employee Discipline, Administrative Leave, and Orderly Termination](#). Disciplinary action may include, but is not limited to, warnings, reprimands, probation, disciplinary transfer, suspension, reduction in pay or hours, or termination. In imposing such discipline, all facts and circumstances of the incidents(s) shall be taken into account.
- 11.3.** If the investigation reveals evidence of potential criminal activity, the District shall notify appropriate law enforcement authorities and may initiate proceedings to remove the accused party from the situation.
- 11.4.** If an investigation finds evidence of Discrimination or Harassment, the Director of Human Resources or designee shall implement remedial action necessary to eliminate its effects upon the complainant and the workplace. Remedial action may include changes to school or District programs, offerings, facilities, rules, policies, or practices.

12. ENFORCEMENT

District and school administrators shall take appropriate actions to enforce this policy. As needed, these actions may include, but are not limited to, any of the following:

- 12.1.** Removing vulgar or offending graffiti;
- 12.2.** Providing staff in-service and student instruction or counseling;
- 12.3.** Notifying parents/legal guardians of this policy;
- 12.4.** Notifying law enforcement authorities; and
- 12.5.** Taking appropriate disciplinary action.

13. FALSE COMPLAINTS

False, malicious, or frivolous complaints of Discrimination or Harassment shall result in corrective or disciplinary action taken against the complainant.

14. RECORD KEEPING

- 14.1.** An employee who conducts an investigation under this policy shall maintain a confidential record separate from the employee's personnel file that includes the complaint, response, witness statements, evidence, and reports.
- 14.2.** All student discipline issued for violations of this policy shall be documented by the principal or Coordinator of Student Services on the District's Student Information System ("SIS").

- 14.3. All employee discipline issued for violations of this policy shall be documented in accordance with [Nebo School District Policy GCPD, Employee Discipline, Administrative Leave, and Orderly Termination](#).
- 14.4. All complaints and allegations of Discrimination or Harassment shall be kept confidential except as necessary to carry out the investigation or take other necessary action.
- 14.5. Records of site-level and District-level complaints and investigations shall be retained in accordance with applicable federal and state law.

15. TRAINING

Nebo School District recognizes the importance of educating its employees and students regarding the prevention of Discrimination or Harassment, the promotion of cultural diversity, and the observance of high ethical standards. To these ends, the District will provide ongoing training and education in this area. Notice of this policy will be distributed and training will be conducted for employees and students of the District.

16. DISSEMINATION OF POLICY

This policy may be posted on the District's website and published in student registration materials, student and employee handbooks, parent information guides, and other appropriate school publications as directed by the District. The following nondiscrimination notice shall be disseminated.

Notice of Nondiscrimination: It is the policy of Nebo School District not to discriminate on the basis of race, color, national origin, gender identity, religion, disability, age, or any other legally protected classification in its educational programs, activities, admissions, access, treatment, or employment practices. Nebo School District provides equal access to the Boy Scouts and other designated youth groups.

Questions, concerns, complaints, and requests regarding this nondiscrimination policy should be directed to the following Individuals:

Civil Rights Coordinator: Student and employee issues regarding discrimination, harassment, and sexual harassment in District programs, activities, events, and services. The Civil Rights Coordinator serves as the District Title IX Coordinator, Section 504 Coordinator, Title IV Coordinator, Title VI Coordinator, and Title VII Coordinator. [[Section 504 of the Rehabilitation Act of 1973](#); [Titles IV, VI, and VII of the Civil Rights Act of 1964](#); [Title IX of the Education Amendments of 1972](#); [Americans with Disabilities Act \(ADA\)](#)]

Risk Manager: Physical barriers to building access and physical barriers to educational programs, activities, events, and services. [[Americans with Disabilities Act \(ADA\)](#)]

Director of Human Resources: Employee accommodation requests due to physical or mental impairments. [[Americans with Disabilities Act \(ADA\)](#)]

The Civil Rights Coordinator, Risk Manager, and Director of Human Resources are located at Nebo School District Offices, 350 South Main, Spanish Fork, UT 84660; Telephone No. 801-354-7400.

Additionally, concerns may be directed to the U.S. Department of Education, Office for Civil Rights, 1244 Speer Boulevard, Suite 310, Denver, CO 80204-3582; Telephone No. 303-844-5695; Fax No. 303-844-4303; TDD No. 877-521-2172.

EXHIBITS

Nebo School District Employee Discrimination and Harassment Complaint Procedures Flowchart

REFERENCES

[Title VI of the Civil Rights Act of 1964, 42 U.S.C. §2000d](#)
[Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e-2](#)
[Title IX of the Education Amendments of 1972, 20 U.S.C. §1681\(a\)](#)
[Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §794\(a\)](#)

[Americans with Disabilities Act, 42 U.S.C. §12101 et seq.](#)
[Individuals with Disabilities Education Act, 20 U.S.C. §1400 et seq.](#)
[Utah Antidiscrimination Act of 1965, UTAH CODE ANN. §34A-5-101 et seq.](#)
[Nebo School District Policy JDCB/GBEBB, *Sexual Harassment*](#)
[Nebo School District Policy GBEG, *Workplace Accommodations for Employees with Disabilities*](#)
[Nebo School District Policy GBHB, *Information and Communication Technology/Social Networking*](#)
[Nebo School District Policy GCPD, *Employee Discipline, Administrative Leave, and Orderly Termination*](#)
[Nebo School District Policy JD, *Student Conduct and Discipline*](#)
[Nebo School District Policy JDC, *Student Discrimination and Harassment*](#)
[Nebo School District Policy JDD/GBEA, *Prohibition of Bullying, Hazing, and Retaliation*](#)
[Nebo School District Policy JDG, *Student Dress and Grooming*](#)
[Nebo School District Policy JR, *Section 504 of the Rehabilitation Act of 1973*](#)

FORMS

Employee Civil Rights Harassment Investigator Checklist
Employee Civil Rights Harassment Complaint
Employee Civil Rights Harassment Response
Employee Civil Rights Harassment Witness Statement
Employee Civil Rights Harassment Report and Decision

HISTORY

Revised: 13 April 2022 – revised investigation procedures; updated names of forms; made technical changes.

Revised: 8 July 2020 – removed reference to sexual harassment under new Title IX regulations and created new policy JDCB/GBEBB; moved some responsibilities from Director of Human Resources to Civil Rights Coordinator; made technical changes.

Revised: 12 December 2018 – added prohibition against, and remedy for, system-wide discrimination.

Revised: 11 July 2018 – clarified investigative procedures; added clarification that minor procedural violations don't invalidate an investigation; added role of civil rights coordinator; updated notice of non-discrimination; made technical changes.

Revised: 8 July 2015 – appointed director of human resources as employee civil rights coordinator; described civil rights laws; clarified scope; defined building administrator; updated per changes to Utah antidiscrimination act; added exposure of body parts as prohibited conduct; revised and reorganized complaint, reporting, and investigation process; clarified prohibition on retaliation; added section on confidentiality; strengthened evidence preservation and recordkeeping provisions; added notice of non-discrimination to section on dissemination of policy; made technical changes.

Revised: 9 July 2014 – overhauled and reformatted; board adopted as new policy without changes tracked.

Adopted or Revised: 16 March 2005.
