

PROHIBITION AGAINST ILLEGAL DISCRIMINATION, HARASSMENT AND RETALIATION

General Rule

The Fort Zumwalt School District Board of Education is committed to maintaining a workplace and educational environment that is free from illegal discrimination, harassment and retaliation in admission or access to, or treatment or employment in, its programs, activities and facilities in accordance with law, the district strictly prohibits discrimination or harassment against employees, students or others on the basis of race, color, religion, sex, sexual orientation or perceived sexual orientation, national origin, ancestry, disability, age, genetic information or any other characteristic protected by law. The Fort Zumwalt School District is an equal opportunity employer.

The Board also prohibits:

1. Retaliatory actions including, but not limited to, acts of intimidation, threats, coercion or discrimination against those who:
 - a) Make complaints of illegal discrimination or harassment.
 - b) Report illegal discrimination or harassment.
 - c) Participate in an investigation, formal proceeding or informal resolution, whether conducted internally or outside the district, concerning illegal discrimination or harassment.
2. Aiding, abetting, inciting, compelling or coercing discrimination, harassment actions.
3. Discrimination, harassment or retaliation against any person because of such a person's association with a person protected from discrimination or harassment in accordance with this policy and the law.

As used in this policy, “discrimination, harassment or retaliation” has the same meaning as “illegal discrimination, harassment or retaliation” and is limited to acts prohibited by law. All employees, students and visitors must immediately report to the district for investigation any incident or behavior that could constitute illegal discrimination, harassment or retaliation in accordance with this policy. If a student alleges sexual misconduct on the part of any district employee to any person employed by the district, that person will immediately report the allegation to the Children’s Division (CD) of the Department of Social Services in accordance with state law.

Sexual Harassment Reporting and District Response

Sexual harassment is prohibited under this policy and policy ACA, but policy ACA applies only to a narrower category of sexual harassment under Title IX, as defined in the federal regulations. All sexual

harassment reports must be made to the Title IX coordinator identified in policy ACA and evaluated for policy ACA applicability. If a sexual harassment report is made to any other district employee, the report must be promptly referred to the Title IX coordinator for intake. Incidents of alleged sexual harassment that are not investigated under policy ACA may be referred for processing under this policy.

Additional Prohibited Behavior

Behavior that is not unlawful or does not rise to the level of illegal discrimination, harassment or retaliation might still be unacceptable for the workplace or the educational environment. The district encourages students, employees and the public to report such behavior so that it can be promptly addressed, but the grievance process in this policy is reserved for allegations of illegal discrimination, harassment and retaliation.

Boy Scouts of America Equal Access Act

As required by law, the district will provide equal access to district facilities and related benefits and services and will not discriminate against any group officially affiliated with the Boy Scouts of America, the Girl Scouts of the United States of America or any other youth group designated by applicable federal law.

School Nutrition Programs

In accordance with federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the programs (including the district), are prohibited from discriminating based on race, color, national origin, sex, disability, age or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by the USDA. These programs include the National School Lunch Program, the Special Milk Program, the School Breakfast Program and the Summer Food Service Program.

Any person or representative alleging discrimination based on a prohibited basis has the right to file a complaint within 180 days of the alleged discriminatory action with the USDA Office of the Assistant Secretary for Civil Rights or the district's compliance officer using the process outlined in policy EF.

Interim Measures

When a report is made or the district otherwise learns of potential discrimination, harassment or retaliation, the district will take immediate action to protect the alleged victim, including implementing interim measures. Such interim measures may include, but are not limited to, altering a class seating arrangement, providing additional supervision or suspending an employee pending an investigation. The district will also take immediate steps to prevent retaliation against the alleged victim, any person associated with the alleged victim, or any

witnesses or participants in the investigation. These steps may include, but are not limited to, notifying students, 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.

Consequences and Remedies

If the district determines that discrimination, harassment or retaliation have occurred, the district will take prompt, effective and appropriate action to address the behavior, prevent its recurrence and remedy its effects.

Employees who violate this policy will be disciplined, up to and including employment termination. Students who violate this policy will be disciplined, which may include suspension or expulsion. Patrons, contractors, visitors or others who violate this policy may be prohibited from school grounds or otherwise restricted while on school grounds. The superintendent or designee will contact law enforcement or seek a court order to enforce this policy when necessary or when actions may constitute criminal behavior.

Students, employees and others will not be disciplined for speech in circumstances where it is protected by law.

In accordance with law and district policy, any person suspected of abusing or neglecting a child will be reported to the CD.

Definitions

Compliance Officer – The individual responsible for implementing this policy, including the acting compliance officer when performing duties of the compliance officer.

Discrimination – Conferring benefits upon, refusing or denying benefits to, or providing differential treatment to a person or class of persons in violation of law based on race, color, religion, sex, national origin, ancestry, disability, age, genetic information or any other characteristic protected by law, or based on a belief that such a characteristic exists.

Grievance - A verbal or written report (also known as a complaint) of discrimination or harassment made to the compliance officer.

Harassment - A form of discrimination, as defined above, that occurs when the school or work environment becomes permeated with intimidation, ridicule or insult that is sufficiently severe or pervasive enough that it unreasonably alters the employment or educational environment.

Behaviors that could constitute illegal harassment include, but are not limited to, the following acts if based on race, color, religion, sex, national origin, ancestry, disability, age, genetic information or any other characteristic protected by law or a belief that such a characteristic exists: graffiti; display of

written material, pictures or electronic images; name calling, teasing or taunting; insults, derogatory remarks or slurs; jokes; gestures; threatening, intimidating or hostile acts; physical acts of aggression, assault or violence; theft; or damage to property.

Sexual Harassment – A form of discrimination, as defined above, on the basis of sex. Sexual harassment is unwelcome conduct that occurs when a) benefits or decisions are implicitly or explicitly conditioned upon submission to, or punishment is applied for refusing to comply with, unwelcome sexual advances, requests for sexual favors or conduct of a sexual nature; or b) the school or work environment becomes permeated with intimidation, ridicule or insult that is based on sex or is sexual in nature and that is sufficiently severe or pervasive enough to alter the conditions of participation in the district’s programs and activities or the conditions of employment. Sexual harassment may occur between members of the same or opposite sex. The district presumes a student cannot consent to behavior of a sexual nature with an adult regardless of the circumstance. “Sexual Harassment under Title IX” is a subset of this definition, and the district’s response to qualifying allegations is set forth in policy ACA.

Behaviors that could constitute sexual harassment include, but are not limited to:

1. Sexual advances and requests or pressure of any kind for sexual favors, activities or contact.
2. Conditioning grades, promotions, rewards or privileges on submission to sexual favors, activities or contact.
3. Punishing or reprimanding persons who refuse to comply with sexual requests, activities or contact.
4. Graffiti, name calling, slurs, jokes, gestures or communications of a sexual nature or based on sex.
5. Physical contact or touching of a sexual nature, including touching of intimate parts and sexually motivated or inappropriate patting, pinching or rubbing.
6. Comments about an individual’s body, sexual activity or sexual attractiveness.
7. 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 when a person is not capable of giving consent due to the person’s age, intellectual disability or use of drugs or alcohol.
8. Gender-based harassment and acts of verbal, nonverbal, written, graphic or physical conduct based on sex or sex stereotyping, but not involving conduct of a sexual nature.

Working Days – Days on which the district’s business offices are open.

Compliance Officer

The Board designates the following individuals to act as the district's compliance officers:

Assistant Superintendent of Personnel (employee issues)
555 East Terra Lane
O'Fallon, MO 63366
(636) 272-6620

Assistant Superintendent of Student Personnel Services (student issues)
555 East Terra Lane
O'Fallon, MO 63366
(636) 272-6620

Assistant Superintendent for Special Services
Compliance Coordinator for 504 Complaints
555 E. Terra Lane, O'Fallon, Missouri
636-272-6620

In the event the compliance officer is unavailable or is the subject of a report that would otherwise be made to the compliance officer, reports should instead be directed to the acting compliance officers:

Assistant Superintendent of Personnel
555 East Terra Lane
O'Fallon, MO 63366
(636) 272-6620

Assistant Superintendent of Student Personnel Services
555 East Terra Lane
O'Fallon, MO 63366
(636) 272-6620

For matters within the scope of this policy the compliance officers will:

1. Coordinate district compliance with this policy and the law.
2. Receive all grievances regarding discrimination and harassment in the Fort Zumwalt School District except as provided in policy ACA.
3. Serve as the district's designated Title VI, Section 504 and the Americans with Disabilities Act (ADA) coordinator, as well as the contact person for compliance with other discrimination laws.
4. Forward reports of sexual harassment and otherwise assist in Title IX compliance as directed in policy ACA.
5. Investigate or assign persons to investigate grievances; monitor the status of grievances to ensure that additional discrimination, harassment and retaliation do not occur; and other

- recommend consequences.
6. Review all evidence brought in disciplinary matters to determine whether additional remedies appropriate, and recommend which interim measures should be implemented.
 7. Determine whether district employees with knowledge of discrimination, harassment or retaliation failed to carry out their reporting duties and recommend disciplinary action, if necessary.
 8. Communicate regularly with the district's law enforcement unit or other law enforcement point of contact for the district to determine whether any reported crimes constitute potential discrimination, harassment or retaliation.
 9. Oversee discrimination, harassment or retaliation grievances, including identifying and addressing any patterns or systemic problems and reporting such problems and patterns to the superintendent or the Board.
 10. Seek legal advice when necessary to enforce this policy.
 11. Report to the superintendent and the Board aggregate information regarding the number and frequency of grievances and compliance with this policy.
 12. Make recommendations regarding the implementation of this policy.
 13. Coordinate and institute training programs for district staff and supervisors as necessary to meet the goals of this policy, including instruction in recognizing behavior that constitutes discrimination and harassment.
 14. Periodically review student discipline records to determine whether disciplinary consequences are applied uniformly.
 15. Perform other duties as assigned by the superintendent.

Public Notice

The superintendent or designee will continuously publicize the district's policy prohibiting illegal discrimination, harassment and retaliation and disseminate information on how to report discrimination, harassment and retaliation. Notification of the district's policy will be posted in a public area of each building used for instruction or employment or open to the public. Information will also be distributed annually to employees, parents/guardians and students as well as to newly enrolled students and newly hired employees. District bulletins, catalogs, application forms, recruitment material and the district's website will include a statement that the Fort Zumwalt School District does not discriminate in its programs, services, activities, facilities or with regard to employment. The district will provide information in alternative formats when necessary to accommodate persons with disabilities.

Reporting

Students, employees and others may attempt to resolve minor issues by addressing concerns directly to the person alleged to have violated this policy, but are not expected or required to do so. Any attempts to voluntarily resolve a grievance will not delay the investigation once a report has been made to the district.

Reports Involving Sexual Harassment

In cases involving sexual harassment, all person must report incidents directly to the Title IX coordinator for evaluation under policy ACA. All district employees will instruct all persons seeking to make a report or complaint to communicate directly with the Title IX coordinator. Even if the suspected victims of discrimination, harassment or retaliation do not report on their own behalf, district employees are required to report to the Title IX coordinator any observations, rumors or other information about actions prohibited by this policy and policy ACA.

All Other Reports

Unless the concern is otherwise voluntarily resolved, all persons must report incidents that might constitute discrimination, harassment or retaliation directly to the compliance officer or acting compliance officer. All district employees will instruct all persons seeking to file a grievance to communicate directly with the compliance officer. Even if the potential victim of discrimination or harassment does not file a grievance, district employees are required to report to the compliance officer any observations, rumors or other information about actions prohibited by this policy. If a verbal grievance is made, the person will be asked to submit a written complaint to the compliance officer or acting compliance officer. If a person refuses or is unable to submit a written complaint, the compliance officer will summarize the verbal complaint in writing. A grievance is not needed for the district to act upon finding a violation of law, district policy or district expectations.

Even if a grievance under this policy is not directly filed, if the compliance officer otherwise learns about the possible discrimination, harassment or retaliation, including violence, the district will conduct a prompt, impartial, adequate, reliable, and thorough investigation to determine whether unlawful conduct occurred and will implement the appropriate interim measures if necessary.

Student-on-Student Harassment

Building-level administrators are in a unique position to identify and address discrimination, harassment and retaliation between students, particularly when behaviors are reported through the normal disciplinary process and not through a grievance. In general, administrators can immediately discipline a student for any prohibited behavior in accordance with the district's discipline policy.

However, if sexual harassment is observed or alleged, the administrator must consult the Title IX coordinator to determine policy ACA's applicability to the reported facts or allegations prior to imposing discipline. Administrators will report all incidents as directed in the "Reporting" section of this policy and will direct the parent/guardian and student to the compliance officer for further assistance. In cases not being handled under policy ACA, the compliance officer may determine that the incident has been appropriately addressed or recommend additional action.

Investigation

The district will use the investigation process outlined in this section for any grievance filed under this policy (AC).

The district will immediately investigate all grievances submitted under this policy. All persons are required to cooperate fully in the investigation. The district compliance officer or other designated investigator may utilize an attorney or other professionals to conduct the investigation and/or serve in other roles and capacities under the procedures for grievance processing.

The district does not assume responsibility or liability for actions that are unrelated to the district's programs or activities. However, the district may investigate any behavior that occurs on or off district property to the extent that such an investigation is necessary for the district to meet its legal obligations to address discrimination, harassment and retaliation that negatively impact the education or work environment. The district will address such behavior only to the extent that the district has the legal authority to do so.

In determining whether alleged conduct constitutes discrimination, harassment or retaliation, the district will consider the surrounding circumstances, the nature of the behavior, the relationships between the parties involved, past incidents, the context in which the alleged incidents occurred and all other relevant information. Whether a particular action or incident constitutes a violation of this policy requires a determination based on all of the facts and surrounding circumstances. If, after investigation, school officials determine that it is more likely than not (the preponderance of the evidence standard) that discrimination, harassment or other prohibited behavior has occurred, the district will take prompt and effective corrective action in accordance with the law.

Collaboration with Outside Enforcement Agencies

In the event an outside enforcement agency is investigating the same allegation of discrimination, harassment or retaliation or a similar allegation, the district will make a preliminary inquiry, then follow the outside enforcement agency's investigation and response procedures instead of the formal district grievance process. During the inquiry, if the district determines that a reasonable basis for concluding this policy was violated exists, it will enforce appropriate interim measures while ensuring due process to the alleged perpetrator when required. When requested by law enforcement, the district may reasonably delay its own investigation to permit law enforcement to conduct the criminal investigation process.

Grievance Process Overview

1. If a person designated to hear a grievance or appeal is the subject of the grievance, the compliance officer may designate an alternative person to hear the grievance, or the next highest step in the grievance process will be used. For example, if the grievance involves the superintendent, the compliance officer may designate someone outside the district to hear the grievance in lieu of the superintendent, or the grievance may be heard directly by the Board.

2. An extension of the investigation and reporting deadlines may be warranted if extenuating circumstances exist as determined by the district's compliance officer. The person filing the complaint will be notified when deadlines are extended. If more than twice the allotted time has expired without a response, the appeal may be taken to the next level.
3. Failure of the person filing the grievance to appeal within the timelines given will be considered acceptance of the findings and remedial action taken.
4. To the extent permitted by law, the district will investigate all grievances filed under this policy even if an outside enforcing agency such as the Office for Civil Rights, law enforcement or the CD is also investigating a complaint arising from the same circumstances.
5. The district will share information regarding an individually identifiable student or employee with the person filing the grievance or other persons only allowed by law and in accordance with Board policy.
6. Upon receiving a grievance, district administrators or supervisors, after consultation with the compliance officer, will take immediate action if necessary to prevent further potential discrimination harassment during the pending investigation.

Grievance Process

1. Level I - A grievance is filed with the district's compliance officer. The compliance officer may conduct the Level I investigation or assign an administrator or other qualified individual to conduct the investigation. If the compliance officer determines that the grievance allegations involve sexual harassment under policy ACA, the report will be rerouted accordingly.

An investigation will commence no later than five working days after the compliance officer receives the grievance. The investigator shall conduct a prompt, impartial, adequate, reliable and thorough investigation, including the opportunity for the person filing the grievance and other parties involved to identify witnesses and provide information and other evidence. The investigator will evaluate all relevant information and documentation relating to the grievance.

Within 30 working days of receiving the grievance, the investigator will complete a written report that summarizes the investigation and makes determinations as to the facts and whether the facts constitute a violation of this policy based on the appropriate legal standards. If someone other than the compliance officer conducted the investigation, the compliance officer will receive the report and either adopt the report as submitted or modify and complete the report upon further investigation and/or review of applicable policy and law. If a violation of this policy is found, the compliance officer will recommend corrective action to the superintendent to address the discrimination, harassment or retaliation; prevent recurrence; and remedy its effects. The person who filed the grievance, the victim if someone other than the victim filed the grievance, and any alleged perpetrator will be notified in writing within five working days of the completion of the report, in accordance with law and district policy,

regarding whether the district's compliance officer or designee determined that district policy was violated.

2. Level II - Within five working days after receiving the Level I decision, the person filing the grievance, the victim if someone other than the victim filed the grievance, or any alleged perpetrator may appeal the compliance officer's decision to the superintendent by notifying the superintendent in writing. The superintendent may designate another person (other than the compliance officer) to review the matter when appropriate.

Within ten working days, the superintendent will complete a written decision on the appeal, stating whether a violation of this policy is found and, if so, stating what corrective actions will be implemented. If someone other than the superintendent conducts the appeal, the superintendent will review and sign the report before it is given to the person appealing. A copy of the appeal and decision will be given to the compliance officer or acting compliance officer. The person who initially filed the grievance, the victim if someone other than the victim filed the grievance, and any alleged perpetrator will be notified in writing, within five working days of the superintendent's decision, regarding whether the superintendent or designee determined that district policy was violated.

3. Level III – Within five working days after receiving the Level II decision, the person filing the grievance, the victim if someone other than the victim filed the grievance, or any alleged perpetrator may appeal the superintendent's decision to the Board by notifying the Board secretary in writing. The person filing the grievance and the alleged perpetrator will be allowed to address the Board, and the Board may call for the presence of other persons the board deems necessary. The Board will issue a decision within 30 working days for implementation by the administration. The Board secretary will give the compliance officer or acting compliance officer a copy of the appeal and decision. The person who filed the grievance, the victim if someone other than the victim filed a grievance, and the alleged perpetrator will be notified in writing within five working days of the Board's decision, in accordance with law and district policy, regarding whether the Board determined that district policy was violated. The decision of the Board is final.

Confidentiality and Records

To the extent permitted by law and in accordance with Board policy, the district will keep confidential the identity of the person filing a grievance and any grievance or other document that is generated or received pertaining to grievances. Information may be disclosed if necessary to further the investigation, appeal or resolution of a grievance, or if necessary to carry out interim or disciplinary measures. The district will disclose information to the district's attorney, law enforcement, the CD and others when necessary to enforce this policy or when required by law. In implementing this policy, the district will comply with state and federal laws regarding the confidentiality of student and employee records. Information regarding any resulting employee or student disciplinary action will be maintained and released in the same manner as any other disciplinary record. The district will keep any

documentation created in investigating the complaint including, but not limited to, documentation considered when making any conclusions, in accordance with the Missouri Secretary of State's retention manuals and as advised by the district's attorney.

Training

The district will provide training to employees on identifying and reporting acts that may constitute discrimination, harassment or retaliation. The district will instruct employees to make all reports to the district's compliance officer (or Title IX coordinator for sexual harassment, per policy ACA) and will provide current contact information for these persons. The district will inform employees of the consequences of violating this policy and the remedies the district may use to rectify policy violations. All employees will have access to the district's current policy, required notices and complaint forms. The district will provide training to any person responsible for investigating potential discrimination, harassment or retaliation.

The district will provide information to parents/guardians and students regarding this policy and will provide age-appropriate instruction to students.

Adopted: April 5, 1982
Revised: December 3, 1990
Revised: January 4, 1993
Revised: July 19, 1999
Revised: May 21, 2001
Revised: June 18, 2001
Revised: June 28, 2007
Revised: June 27, 2016
Revised: June 24, 2019
Revised: August 19, 2019
Revised: June 28, 2021

Cross Refs: BCC, Appointed Board Officials
ECG, Animals on District Property
EFG, Free and Reduced-Price Food Service
EHB, Technology Usage
GBAC, Staffing with and Employing Retirees
GBAD, Telework
GBCB, Staff Conduct
GBCC, Staff Use of communication Devices
GBH, Staff/Student Relations
GBL, Personnel Records
GBLB, References
GCBA, Professional Staff Compensation
GCD, Professional Staff Recruiting and Hiring
GCPB, Resignation of Professional Staff Members

GCPD, Suspension of Professional Staff Members
GCPE, Termination of Professional Staff Members
CPF, Nonrenewal of Professional Staff Members
GDC, Support Staff Recruiting and Hiring
GDPB, Resignation of Support Staff Members
GDPD, Suspension of Support Staff Members
GDPE, Nonrenewal and Termination of Support Staff Members
IGAEB, Sexual Health Instruction
IGBA, Special Education
IGBCB, Programs for Migrant Students
IGBH, Programs for Limited English Proficient/Language Minority Students
IGCD, Virtual Courses
IGD, District-Sponsored Extracurricular Activities and Organizations
IICC, School Volunteers
INC, Speakers at District Events
IND, Ceremonies and Observances
JFCF, Bullying
JFCG, Hazing
JG, Student Discipline
JHCF, Student Allergy Prevention and Response
JHG, Reporting and Investigating Child Abuse/Neglect
KG, Community Use of District Facilities
KK, Visitors to District Property/Events
KL, Public Concerns and Complaints

MSIP Refs: G-1, I-8

Legal Refs: §§ 105.255, 160.261, 162.068, 213.010 - .137, 290.400 - .450, RSMo.
Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 – 1417
Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681
Boy Scouts of America Equal Access Act, 20 U.S.C. § 7905
Equal Pay Act, 29 U.S.C. § 206(d)
Age Discrimination in Employment Act, 29 U.S.C. §§ 621 – 63
The Rehabilitation Act of 1973, Section 504, 29 U.S.C. § 794
Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d - 2000d-7
Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e1 - 2000e-17
Genetic Information Nondiscrimination Act, 42 U.S.C. §§ 2000ff - 2000ff-aa
Age Discrimination Act of 1975, 42 U.S.C. §§ 6101 - 6107
Americans with Disabilities Act, 42 U.S.C. §§ 12101 – 12213
Richard B. Russell National School Lunch Act, 42 U.S.C. §§ 1751 – 1760
Child Nutrition Act of 1966, 42 U.S.C. §§ 1777 – 1785
7 C.F.R. Parts 210, 215, 220 and 225
34 C.F.R. Part 106
Bostock v. Clayton County, 590 U.S., 140 S.Ct. 1741 (2020)
Jackson v. Birmingham Bd. of Educ., 544 U.S. 167 (2005)
Davis v. Monroe County Bd. of Educ., 526 U.S. 629 (1999)

Faragher v. City of Boca Raton, 524 U.S. 775 (1998)
Burlington Industries v. Ellerth, 524 U.S. 742 (1998)
Gebser v. Lago Vista Ind. Sch. Dist., 524 U.S. 274 (1998)
Oncale v. Sundowner Offshore Services, 523 U.S. 75 (1998)
Harris v. Forklift Systems, Inc., 510 U.S. 17 (1993)

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