

## **AGENDA**

### **School District #145 - Waverly Public Schools**

#### 1. OPENING OF THE MEETING

1. Call to Order
2. Open Meetings Act
3. Publication of Meeting
4. Roll Call

excuse the absence of Board Member Jessica Zuniga from the July 22, 2020 special meeting Passed with a motion by Board Member #1 and a second by Board Member #2.

5. Pledge of Allegiance

#### 2. APPROVAL OF AGENDA

1. Approve Agenda

Approval of the agenda for the meeting Passed with a motion by Board Member #1 and a second by Board Member #2.

#### 3. Discussion Items

1. Return to School Plan

#### 4. Recognition of Visitors/Open Forum

#### 5. Convene Closed Session

1. Convene Closed Session

1. Restate Closed Session Reason

6. Reconvene to Open Session

1. Reconvene Open Session

To reconvene in open session Passed with a motion by Board Member #1 and a second by Board Member #2.

7. ACTION ITEMS

1. Resolution

Approve Return to School Resolution Passed with a motion by Board Member #1 and a second by Board Member #2.

2. First Reading of Board Policies

Approve the first read of Board Policies 5001, 5009, 4010 and 3055. Passed with a motion by Board Member #1 and a second by Board Member #2.

8. Upcoming Board Activities

1. Committee Meetings

2. Board Meetings

3. Board Training/Development

9. Adjournment

10. For Your Information

# Meeting Notice

## Notice of Special Board Meeting School District 145 (aka Waverly Public Schools)

The School District 145-Waverly Board of Education will convene in special session at 5:00 p.m. on Wednesday, July 22<sup>nd</sup>, 2020 in the Waverly High School Library, 13401, Amberly Road, Waverly, Nebraska.

The agenda for this meeting, which shall be kept continually current, shall be readily available for public inspection at the School District 145-Waverly Central Office, located at 14511 Heywood Street, Waverly, Nebraska.

Posted this 16<sup>th</sup> day of July, 2020.

A handwritten signature in black ink that reads "Cory Worrell". The signature is written in a cursive style with a large, sweeping initial "C".

Cory Worrell  
Superintendent

**Public Input to the Board**

It is the policy of the Board of Education to provide for and encourage input from its various constituents in an appropriate and orderly fashion at regularly scheduled Board of Education meetings. The board is open to and encourages input on school issues from the public. The board would prefer that individuals or groups with school related concerns first attempt to resolve those concerns through established administrative channels.

1. Matters concerning an individual school shall be discussed first with the respective building administrator of the school.
2. If the matter is not resolved satisfactorily at the school level, it may then be brought to the Superintendent.
3. If the matter is not resolved satisfactorily at the Superintendent's level, it may then be brought before the board of education by:
  - a. Addressing the matter during Open Forum at a regular, monthly board meeting; individual presentations should be no longer than three (3) minutes and the total allotted Open Forum agenda time will be a maximum of thirty (30) minutes.
  - b. Requesting a formal agenda item by contacting the superintendent or board president on or before the Thursday prior to the regular, monthly meeting which, unless otherwise announced, will be on the first Monday of every month.
  - c. Submitting the matter in writing, said documentation can either be presented at the regular meeting or appended to the agenda, if received in the superintendent's office on the designated Thursday.
4. A response will be provided once the board has the opportunity to inquire about the matter. Possible board responses when appropriate may include, but are not limited to: directing the superintendent to address the matter; tabling for further study; appointing a temporary board committee to study and/or resolve the matter; scheduling a special meeting to hear the matter; or not taking action. Public input to the board is heard during Open Forum. Matters brought to the board in this fashion will be taken under advisement and not acted upon at that time.

**Note: The chair will not allow complaints about individuals. There are appropriate channels to address such matters. Because of the potential of introducing bias into board hearings on termination cases, complaints on individual employees will be received by the board only through the Superintendent of schools.**

Policy Adopted: 04/10/78  
 Policy Revised: 03/07/88  
 Policy Revised: 01/02/06  
 Policy Revised: 11/03/08  
 Policy Reviewed: 04/01/19

SCHOOL DISTRICT 145  
 WAVERLY, NEBRASKA

**RESOLUTION OF THE BOARD OF EDUCATION OF LANCASTER COUNTY  
SCHOOL DISTRICT NO. 55-145, A/K/A WAVERLY SCHOOL DISTRICT 145  
REGARDING THE FALL REOPENING AND RETURN TO SCHOOL**

**BE IT RESOLVED THAT:**

**WHEREAS**, for the past several months, various local, state, and national emergency orders, recommendations, guidance and directives have been issued regarding the COVID-19 global pandemic, including the Nebraska Department of Health and Human Services Directed Health Measure Order 2020-008 (dated April 1, 2020), which required that “All schools; public, private and parochial: are hereby ordered to cease all in-person instruction . . .;” and

**WHEREAS**, since the entry of Directed Health Measure Order 2020-008, the District has provided student instruction via remote or distance means; and

**WHEREAS**, since the end of the 2019-2020 school year, District administrators and staff members have worked diligently with key stakeholder groups, including public health officials and medical experts, to develop a plan to return to in-person student instruction during the 2020-2021 school year; and

**WHEREAS**, the evolving COVID-19 pandemic presents numerous challenges to developing a definitive return-to-school plan, given how the COVID-19 pandemic continues to rapidly develop in a fluid environment (including the possibility of a frequently updated “risk dial”); and

**WHEREAS**, the Board of Education supports the ongoing efforts to develop and implement a return-to-school plan, and the Board of Education believes that it is in the best interests of student learning that students return to in-person instruction during the 2020-2021 school year; and

**WHEREAS**, in order for the District to effectively and timely respond to the ever changing COVID-19 situation, the Board hereby desires to delegate certain authority and decision-making responsibility to the Superintendent or Superintendent’s designee so that the Superintendent or Superintendent’s designee may continue to plan for and ultimately implement without delay a return to in-person instruction during the 2020-2021 school year.

**NOW, THEREFORE**, the Board of Education hereby finds, determines, and adopts the following:

**1. Ratification of Actions Taken to-Date.** The Board of Education hereby ratifies, supports, and affirms all actions taken to-date by District administrators and staff in response to and planning for student instruction during the COVID-19 pandemic.

**2. Delegation of Safety and Health Requirements.** Pursuant to Neb. Rev. Stat. § 79-526, the Board of Education “shall make rules and regulations as it deems necessary for the government and health of the pupils and devise any means as may seem best to secure the regular attendance and progress of children at school.” In fulfillment of that statutory requirement, and

pursuant to all other applicable law, the Board of Education hereby expressly delegates to the Superintendent or Superintendent's designee the authority to develop rules and regulations deemed necessary for the government and health of the District's students and devise any means as may seem best to secure the regular attendance and progress of students at school. These rules and regulations may include a mask requirement or recommendation, sanitizing procedures, social distancing guidelines, building entry and admission protocols, and the like. In formulating, preparing, and implementing said rules and regulations, the Superintendent shall consult with appropriate stakeholder groups, including public health officials and medical experts.

In formulating, preparing and implementing such rules and regulations, the Board further expressly delegates and authorizes the Superintendent or Superintendent's designee to develop and implement any and all other health and safety measures in response to the COVID-19 pandemic, including modifications or changes to the District's 2020-2021 school calendar, transportation provisions and opportunities, extra-curricular and after-school activities, before-and-after-school care programs, and so forth.

By passage of this Resolution, the Board hereby expresses its expectation that all persons, including students, staff, community members, and other visitors comply with such rules and regulations.

**3. Delegation of Student Handbook Provisions.** The Board of Education hereby delegates to the Superintendent or Superintendent's designee the authority to amend, update, or otherwise revise student handbooks for the 2020-2021 school year, so long as such amendments, updates, or revisions relate to the COVID-19 pandemic. Such amendments, updates, or revisions shall have the effect of rules and standards validly established pursuant to Neb. Rev. Stat. §§ 79-257, 79-259, 79-261, 79-262 and 79-264. Further, any such amendments, updates, or revisions (including a possible mask requirement) shall comply with Nebraska law, including Neb. Rev. Stat. §§ 79-734 and 79-2,127, *et seq.*

The Board expects students to comply with such amendments, updates, revisions and any other directives from District administrators and staff.

**4. Delegation of Staff Handbook Provisions.** The Board of Education hereby delegates to the Superintendent or Superintendent's designee the authority to amend, update, or otherwise revise staff handbooks for the 2020-2021 school year, so long as such amendments, updates, or revisions relate to the COVID-19 pandemic. Such amendments, updates, or revisions shall have the effect of Board-approved expectations and directives. The Board further delegates to the Superintendent or Superintendent's designee the authority to determine and implement staff return-to-work requirements, staff health and safety precautions, and, to the extent permitted by law, staff compensation arrangements, including the payment (or nonpayment) of extra duty stipends if a season or activity is cancelled due to the COVID-19 pandemic. The Board expects all staff to comply with such amendments, updates, and revisions.

**5. Temporary Suspension of Board Policies and Delegation of Authority to Develop Rules.** By passage of this Resolution, the Board hereby acknowledges that it has balanced its desire for in-person student instruction with the fluid COVID-19 situation and the need for the

District to achieve a proper balance with the limitations of the District's current budget, existing facilities, staffing levels, and limited resources. After balancing these competing interests, and to the extent permitted by law, the Board hereby suspends any Board policies that conflict with this Resolution or conflict with any action taken by the Superintendent or Superintendent's designee pursuant to this Resolution. Further, any Board policies that would otherwise prevent, hinder, or delay necessary action in carrying out or implementing the same in order to cope with the COVID-19 emergency are hereby waived and suspended. Once this Resolution expires, all Board policies (even those that conflict with this Resolution) will become and remain effective.

**6. Decision-Making Process.** The Superintendent and/or Superintendent's designee is expected to keep the Board reasonably informed of any meaningful actions taken pursuant to this Resolution.

**7. Balancing Interests.** The Board intends that the return to in-person instruction be implemented in a way that prioritizes the health and safety of students, families, and staff members. However, the Board acknowledges that a return to in-person instruction plan may mitigate, but will not completely eliminate, the associated risks of in-person instruction in the middle of the COVID-19 pandemic. As public health professionals have recognized, no single act or set of actions will eliminate the risk of COVID-19. The Board balances this risk while simultaneously recognizing that the need for quality, effective, in-person student instruction is a priority during the 2020-2021 school year. As a result, the Board has balanced these competing interests and has based its preference to return to in-person instruction on the Board's own unique and particular social, economic, and policy-making determinations.

**8. Subsequent or Emergency Changes.** The Superintendent or Superintendent's designee is hereby delegated and authorized to take any subsequent or emergency measures or actions in planning for or implementing a return to in-person student instruction and in response to the COVID-19 pandemic, including those measures that may not be explicitly referenced in this Resolution.

**9. Subsequent Ratification.** The Board intends to ratify the actions of the Superintendent or Superintendent's designee at a subsequent Board meeting.

**10. Expiration.** This Resolution, and all of the content, powers, delegation and authority therein, shall expire upon the earlier of: (1) a vote by a majority of the quorum of the Board or (2) the end of the 2020-2021 school year.

THIS RESOLUTION was adopted this \_\_\_\_ day of \_\_\_\_\_, 2020 by at least a majority vote of a quorum of the Board of Education at a duly held public meeting.

\_\_\_\_\_  
**PRESIDENT, BOARD OF EDUCATION**

\_\_\_\_\_  
**SECRETARY, BOARD OF EDUCATION**

Personnel - All Employees (& Students)Anti-discrimination, Anti-harassment, and Anti-retaliation**A. Elimination of Discrimination.**

The School District 145-Waverly 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.

The School District 145-Waverly does not discriminate on the basis of sex, disability, race, color, religion, veteran status, national or ethnic origin, age, marital status, pregnancy, childbirth or related medical condition, or other protected status in its programs and activities and provides equal access to the Boy Scouts and other designated youth groups. Reasonable accommodations will be provided to employees with disabilities and to those who are pregnant, have given birth, or have a related medical condition, as required by law. The following persons have been designated to handle inquiries regarding the non-discrimination policies:

Students: Delanie McMillan, Director of Student Services, 14511 Heywood St., Waverly, NE 68462, (402) 786-2321(delanie.mcmillan@district145.org).

Employees and Others: Cory Worrell, Human Resources Director, (Superintendent) 14511 Heywood St., Waverly, NE 68462, (402) 786-2321(cory.worrell@district145.org).

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

**B. Prohibited Harassment, Discrimination, and Retaliation of Employees, Students and Others.****1. Purpose:**

The School District 145-Waverly is committed to offering employment and educational opportunities to its employees and students in a climate free of discrimination. Accordingly, unlawful discrimination, harassment or 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 sex, disability, race, color, religion, veteran status, national or ethnic origin, age, marital status, pregnancy, childbirth or related medical condition, or other protected status, 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 sex, disability, race, color, religion, veteran status, national or ethnic origin, age, marital status, pregnancy, childbirth or related medical condition, or other protected status, 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 grades, 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 coordinator designated to handle complaints of discrimination (designated compliance coordinator).

**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 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. If retaliation occurs, the District will take prompt and strong responsive action, including possible discipline, including expulsion or termination, if applicable.

**3. Grievance (or Complaint) Procedures:**

Employees or students should initially report all instances of discrimination, harassment or retaliation to their immediate supervisor or teacher or to the compliance coordinator designated to handle complaints of discrimination. If the employee or student is uncomfortable in presenting the problem to the supervisor or teacher, or if the supervisor or teacher is the problem, the employee or student may report the alleged discrimination, harassment or retaliation to the designated coordinator, or in the case of students, to another staff person (such as a counselor or principal).

Other individuals may report alleged discrimination to the designated coordinator. If the designated coordinator 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 coordinators.

Under no circumstances will a person filing a complaint or grievance involving discrimination be retaliated against for filing the complaint or grievance.

*i. Level 1 (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 promptly 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 aim to complete its investigation within **ten (10) 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. If extenuating circumstances exist, the extended timeframe to complete the investigation will **not exceed ten (10) additional working days without the consent of the complainant, unless the alleged victim agrees to a longer timeline.** Periodic status updates will be given to the parties, when appropriate.

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 coordinator (or designated investigator) will complete an investigative report, which will include:

- a. A summary of the facts,
- b. Findings regarding whether discrimination, harassment or other inappropriate conduct occurred, and
- c. If a finding is made that discrimination, harassment or other inappropriate conduct occurred, the recommended remedy or remedies necessary to eliminate such discrimination, harassment or other inappropriate conduct.

If someone other than the designated compliance coordinator conducted the investigation, the compliance coordinator 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. 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 **one (1) working day** after the investigation is completed. The Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 11232g; 34 C.F.R. Part 99, permits the District to disclose relevant information to a student who was discriminated against or harassed.

*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 **five (5) working days** after receiving the decision. The Superintendent 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 coordinator. [If the Superintendent is the subject of the complaint, the party will file the appeal directly with the Board.]

*iii. Level 3 (Appeal to the Board):*

If the party is not satisfied with the Superintendent's determination, he or she may file an appeal in writing with the Board of Education **within five (5) working days** after receiving the Superintendent's determination. The Board of Education will review the appeal, the Superintendent's determination, the investigative documentation and decision, and allow the party to address the Board at a Board meeting to present his or her appeal. The party will be allowed to address the Board at the Board's next regularly scheduled Board meeting (unless the Board receives the appeal within one week of the next regularly scheduled Board meeting) or at a time and date agreed to by the Board, designated compliance officer and the party. The Board will issue a written determination about the appeal **within thirty (30) days** after the party addresses the Board. The party who filed the appeal will be sent the Board's determination at the time it is issued, and a copy will be sent to the designated compliance coordinator. The Board's determination, and any actions taken, will be final on behalf of the District.

**4. 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 students. 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.

**5. Training:**

The District will ensure that relevant District employees 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.

In addition, the District shall ensure that employees designated to address or investigate discrimination, harassment, and retaliation, including designated compliance coordinators, receive 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.

**6. Designated Compliance Coordinators:**

Designated compliance coordinators 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 students and 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 coordinator 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 District's law enforcement unit 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 students or 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 coordinator and responding to the allegations.
- j. Recommending changes to this policy and grievance procedure.
- k. Performing other duties as assigned.

**7. 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 Coordinator section, above, for further information on compliance coordinator), 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 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.

Legal Reference: Title VI, 42 U.S.C. § 2000d, Title VII, 42 U.S.C. § 2000e, Title IX; 20 U.S.C. § 1681, and the Nebraska Fair Employment Practices Act, Neb. Rev. Stat. §48-1101 et seq.  
Age Discrimination in Employment Act (ADEA), the Older Workers Benefit Protection Act (OWBPA), 29 U.S.C. §621 et seq., and the Nebraska Age Discrimination in Employment Act, Neb. Rev. Stat. §48-1001 et seq.;

Americans with Disabilities Act (ADA), 42 U.S.C. § 12101 et seq.  
Section 504 of the Rehabilitation Act of 1973 (Section 504)  
Pregnancy Discrimination Act, 42 U.S.C. § 2000e(k)  
Uniform Service Employment and Reemployment Rights Act (USERRA), 38 U.S.C. § 4301 et seq.  
Neb. Rev. Stat. § 79-2,115, et seq

Date of Adoption: 8/6/18

SCHOOL DISTRICT 145  
WAVERLY, NEBRASKA

StudentsAdmission RequirementsMinimum Age:

A child shall be eligible for admission into kindergarten at the beginning of the school year if the child is five years of age or will be five years of age on or before July 31 of the calendar year in which the school year for which the child is seeking admission begins. The School Board shall admit a child who will reach the age of five years on or after August 1 and on or before October 15 of such school year if the parent or guardian requests such entrance and provides an affidavit stating that (i) the child attended kindergarten in another jurisdiction in the current school year; (ii) the family anticipates a relocation to another jurisdiction that would allow admission within the current year; or (iii) the child is capable of carrying the work of kindergarten which can be demonstrated through a recognized assessment procedure approved by the Board.

Early Admission to Kindergarten:

The following assessment procedure for determining if a child is capable of carrying the work of kindergarten is approved and shall be made available to interested persons:

Early kindergarten enrollment exceptions may be made for younger children who are intellectually advanced. At a minimum, eligibility for the admission shall be based upon an analysis of the child's: (1) mental ability, (2) emotional/social development, (3) pre academic skills, and (4) fine motor skills.

The kindergarten early entrance assessment procedures are designed to identify and place in kindergarten those children who:

- a. will turn 5 years of age between August 1 and October 15;
- b. are deemed by parents or guardians as being intellectually advanced and likely to benefit from advanced grade placement; and
- c. are selected on the basis of testing by professionals trained and certified to administer the assessments that will produce evidence of strength in:
  1. mental ability defined as scoring 84th percentile or above on a standardized assessment of cognitive ability such as the Wechsler Pre Primary Scale of Intelligence III, or the Stanford-Binet V;
  2. a test of emotional/social development such as the Behavior Assessment System for Children, Second Edition (BASC-2);
  3. 75th percentile or greater on a test of pre academic skills such as the Woodcock Johnson III; and
  4. a test of fine motor ability, scoring 75th percentile or above on a standardized measurement such as the Beery VMI.

In the discretion of the Superintendent or designee, the assessments may be administered by the School District's professional staff, or the parents or guardians may be required, at their own expense, to have all or some of the required assessments completed by

reputable professionals and to submit the results of such assessments to the School District.

The decision regarding early entrance to kindergarten requires careful consideration of all factors that affect kindergarten success with final determination to be made based on the recommendation of the District Evaluation Team, to be composed of such individuals as the Superintendent or designee determine appropriate. The academic, social, and emotional readiness, as well as the student's physical development and well-being, must be weighed with institutional factors also considered. Sound decision making in the area of early entrance to kindergarten is dependent upon reliable information regarding a student's readiness and a thoughtful balancing of the myriad of factors implicated by the decision. Parents will be notified in writing of the results of the Early Kindergarten Entrance assessment and the determination of the District Evaluation Team in a timely fashion; not to exceed three weeks after the assessments are completed.

Families who seek early admission of their child into kindergarten must obtain an *Early Entrance to Kindergarten Packet* from the School District Administrative.

Parents must fill out the early entrance application forms, which include a parent questionnaire and obtain and attach a reference letter from someone who is well acquainted with the child but not a relative of the child. The person providing this reference should know the child well enough that they can speak with some expertise about the child's attributes and abilities. The reference letter should indicate whether this person recommends the child be schooled with children who will be a year older than the child and, if so, the evidence this person has concerning the child's mental ability, fine and gross motor ability, visual and auditory discrimination, emotional/social development, and communication skills. Suggestions for this reference letter are a preschool teacher, a Sunday school teacher, a day-care provider, or a physician.

The assessment request, reference letter and parent questionnaire must be completed and returned to the District no later than May 25th of the spring before fall enrollment to allow summer assessment to be completed.

Decisions regarding early kindergarten entrance must include consideration of the above and shall not be made based on race, color, gender, religion, ancestry, national origin, marital status, age, disability, or sexual orientation of the child or the child's parents or guardians. Institutional factors, such as capacity, may also be considered.

#### Foster Home Placement

A student who has been placed in a foster home within the school district will not be permitted to enroll unless the district has received a written determination from the Nebraska Department of Health and Human Services that it is in the best interest of the student not to attend the district in which the student resided at the time the student became a foster child.

#### Admission to First Grade:

A child may be eligible to enter first grade, even if the child has not attended kindergarten, if the child is six years of age or will be six years of age on or before October 15 of the current school year and school officials determine that first grade is the appropriate placement for the child.

Graduates:

A student who has received a high school diploma or received a General Equivalency Diploma shall not be eligible for admission or continued enrollment.

Age 21:

A student shall not be admitted or continued in enrollment after the end of the school year in which the student reaches the age of 21. The school year for this purpose ends at the last day of instruction for graduating seniors.

Birth Certificate, Physical, Visual Evaluation and Immunization:

The parents or legal guardian shall furnish:

- (1) A certified copy of the student's birth certificate issued by the state in which the child was born, upon admission of a child for the first time, shall be provided within 30 days of enrollment. Other reliable proof of the child's identify and age, accompanied by an affidavit explaining the inability to produce a copy of the birth certificate, may be used in lieu of a birth certificate. An affidavit is defined as a notarized statement by an individual who can verify the reason a copy of the birth certificate cannot be produced. (Failure to provide the birth certificate does not result in non-enrollment or disenrollment, but does result in a referral to local law enforcement for investigation).
- (2) Evidence of a physical examination by a physician, physician assistant, or nurse practitioner, within six months prior to the entrance of the child into the beginner grade and the seventh grade or, in the case of a transfer from out of state, to any other grade, unless the parent or legal guardian submits a written statement objecting to a physical examination.
- (3) Evidence of a visual evaluation by a physician, a physician assistant, an advanced practice registered nurse, or an optometrist, within six months prior to the entrance of the child into the beginner grade or, in the case of a transfer from out of state, to any other grade, unless the parent or legal guardian submits a written statement objecting to a visual evaluation. The visual evaluation is to consist of testing for amblyopia, strabismus, and internal and external eye health, with testing sufficient to determine visual acuity.
- (4) Evidence of protection against diphtheria, tetanus, pertussis, polio, measles, mumps, and rubella, Hepatitis B, Varicella (chicken pox), Haemophilus Influenzae type b (Hib), invasive pneumococcal disease and other diseases as required by applicable law, by immunization, prior to enrollment, unless the parent or legal guardian submits a written statement that establishes than an exception to the immunization requirements are met.

- (5) Every student entering the seventh grade shall have a booster immunization containing diphtheria and tetanus toxoids and an acellular pertussis vaccine which meets the standards approved by the United States Public Health Service for such biological products, as such standards existed on January 1, 2009.

The Superintendent or Superintendent's designee shall notify the parent or guardian in writing of the foregoing requirements and of the right to submit affidavits or statements to object to the requirements, as applicable. The Superintendent or Superintendent's designee shall also provide a telephone number or other contact information to assist the parent or guardian in receiving information regarding free or reduced-cost visual evaluations for low-income families who qualify.

A student who fails to meet the foregoing requirements shall not be permitted to enroll or to enter school, or if provisionally enrolled or enrolled without compliance, shall not be permitted to continue in school until evidence of compliance or an exemption from compliance is given.

#### Enrollment of Expelled Students

If a student has been expelled from any public school district in any state, or from a private, denominational, or parochial school in any state, and the student has not completed the terms or time period of the expulsion, the student shall not be permitted to enroll in this school district until the expulsion period from such other school has expired, unless the School Board of this school district in its sole and absolute discretion upon a proper application approves by a majority vote the enrollment of such student prior to expiration of the expulsion period. As a condition of enrollment, the School Board may require attendance in an alternative school, class or educational program pursuant to Nebraska law until the terms or time period of the original underlying expulsion are completed. A student expelled from a private, denominational, or parochial school or from any public school in another state, will not be prohibited from enrolling in the public school district in which the student resides or in which the student has been accepted pursuant to the enrollment option program for any period of time beyond the time limits placed on expulsion, pursuant to the Student Discipline Act, or for any expulsion for an offense for which expulsion is not authorized for a public school student under such Act. For purposes of this policy, the term expulsion or expelled includes any removal from any school for a period in excess of twenty (20) school days.

#### Military Families

If a parent presents evidence to the District of military orders that military family will be stationed in the State of Nebraska during the current or following school year, the District will enroll preliminarily the parent's students.

Legal Reference:     Neb. Rev. Stat. §§ 43-2001 to 43-2012  
                          Neb. Rev. Stat. § 79-214  
                          Neb. Rev. Stat. §§ 79-217 to 79-223  
                          Neb. Rev. Stat. § 79-266.01  
                          173 NAC Chapters 3 and 4 (HHS Regulations)

Policy Adopted: 08/05/19

Students (& Employees)Anti-discrimination, Anti-harassment, and Anti-retaliation**A. Elimination of Discrimination.**

The School District 145-Waverly 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.

The School District 145-Waverly does not discriminate on the basis of sex, disability, race, color, religion, veteran status, national or ethnic origin, age, marital status, pregnancy, childbirth or related medical condition, or other protected status in its programs and activities and provides equal access to the Boy Scouts and other designated youth groups. The following persons have been designated to handle inquiries regarding the non-discrimination policies:

Students: Delanie McMillan, Director of Student Services, 14511 Heywood St., Waverly, NE 68462, (402) 786-2321(delanie.mcmillan@district145.org).

Employees and Others: Cory Worrell, Human Resources Director, (Superintendent) 14511 Heywood St., Waverly, NE 68462, (402) 786-2321(cory.worrell@district145.org).

Complaints or concerns involving discrimination or needs for accommodation or access should be addressed to the appropriate Coordinator. 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 OCR at One Petticoat Lane, 1010 Walnut Street, 3rd Floor, Suite 320, Kansas City, Missouri 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, Students and Others.****1. Purpose:**

The School District 145-Waverly is committed to offering employment and educational opportunity to its employees and students 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 sex, disability, race, color, religion, veteran status, national or ethnic origin, age, marital status, pregnancy, childbirth or related medical condition, or other protected status, 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 sex, disability, race, color, religion, veteran status, national or ethnic origin, age, marital status, pregnancy, childbirth or related medical condition, or other protected status, 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 grades, 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 coordinator designated to handle complaints of discrimination (designated compliance coordinator).

**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 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. If retaliation occurs, the District will take prompt and strong responsive action, including possible discipline, including expulsion or termination, if applicable.

**3. Grievance (or Complaint) Procedures:**

Employees or students should initially report all instances of discrimination, harassment or retaliation to their immediate supervisor or teacher or to the compliance coordinator designated to handle complaints of discrimination (designated coordinator). If the employee or student is uncomfortable in presenting the problem to the supervisor or teacher, or if the supervisor or teacher is the problem, the employee or student may report the alleged discrimination, harassment or retaliation ("discrimination") to the designated coordinator, or in the case of students, to another staff person (such as a counselor or principal).

Other individuals may report alleged discrimination to the designated coordinator. If the designated coordinator 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 coordinators.

Under no circumstances will a person filing a complaint or grievance involving discrimination be retaliated against for filing the complaint or grievance.

*i. Level 1 (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 promptly 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 aim to complete its investigation within **ten (10) 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. If extenuating circumstances exist, the extended timeframe to complete the investigation will **not exceed ten (10) additional working days without the consent of the complainant, unless the alleged victim agrees to a longer timeline.** Periodic status updates will be given to the parties, when appropriate.

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 coordinator (or designated investigator) will complete an investigative report, which will include:

- a. A summary of the facts,
- b. Findings regarding whether discrimination, harassment or other inappropriate conduct occurred, and
- c. If a finding is made that discrimination, harassment or other inappropriate conduct occurred, the recommended remedy or remedies necessary to eliminate discrimination, harassment or other inappropriate conduct.

If someone other than the designated compliance coordinator conducted the investigation, the compliance coordinator 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. 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 **one (1) working day** after the investigation is completed. The Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 11232g; 34 C.F.R. Part 99, permits the District to disclose relevant information to a student who was discriminated against or harassed.

*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 **five (5) working days** after receiving the decision. The Superintendent 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 coordinator. [If the Superintendent is the subject of the complaint, the party will file the appeal directly with the Board.]

*iii. Level 3 (Appeal to the Board):*

If the party is not satisfied with the Superintendent’s determination, he or she may file an appeal in writing with the Board of Education **within five (5) working days** after receiving the Superintendent’s determination. The Board of Education will review the appeal, the Superintendent’s determination, the investigative documentation and decision, and allow the party to address the Board at a Board meeting to present his or her appeal. The party will be allowed to address the Board at the Board’s next regularly scheduled Board meeting (unless the Board receives the appeal within one week of the next regularly scheduled Board meeting) or at a time and date agreed to by the Board,

designated compliance officer and the party. The Board will issue a written determination about the appeal **within thirty (30) days** after the party addresses the Board. The party who filed the appeal will be sent the Board's determination at the time it is issued, and a copy will be sent to the designated compliance coordinator. The Board's determination, and any actions taken, will be final on behalf of the District.

**4. 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 students. 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,

**5. Training:**

The District will ensure that relevant 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.

**6. Designated Compliance Coordinators:**

Designated compliance coordinators 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 students and 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 coordinator 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 District's law enforcement unit 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 students or 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 coordinator and responding to the allegations.
- j. Recommending changes to this policy and grievance procedure.
- k. Performing other duties as assigned.

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

**7. 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 Coordinator section, above, for further information on compliance coordinator), 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 and students 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.

Date of Adoption: 8/6/18

SCHOOL DISTRICT 145  
WAVERLY, NEBRASKA

## Records Management and Disposition

Records should generally be organized, managed, retained and disposed of in accordance with the law and the Secretary of State's Schedule 10 and 24 for retention and disposition of public records.

The superintendent is designated as the records officer of the school district for purposes of this policy. Any questions about the type or category of a record or the required retention period for it should be addressed to the superintendent.

Electronic messages are communications using an electronic system to administer school district business internally; between other state and local government agencies; and with parents, students, patrons and others. Messages may be in the form of e-mail, electronic document exchange (faxes), and electronic data interchange (EDI). Depending upon the context, the terms of electronic messages and e-mail are used in this policy to convey the same thing. The school district's electronic system in which records are collected, organized, and categorized to facilitate preservation, retrieval, use, and disposition are as follows:

- I. End-User Management: End-user is anyone who creates or receives electronic messages on the school district's electronic system. Electronic messages are to be managed at the end-user's desktop rather than from a central point. Each end-user is responsible for organizing, managing and disposing of records that are part of their district-owned computer and accounts.
- II. Categories for Retention: Electronic messages fall within three categories: (1) transitory messages; (2) records with a less than permanent retention period; and (3) records with a permanent retention period. End-users are to organize, store, retain and dispose of electronic messages according to these three categories. This means determining which electronic messages require long-term retention, determining who is responsible for making this decision, and establishing storage and disposition requirements for electronic messages.
  - A. Transitory messages: Transitory messages include copies posted to several persons and casual, routine communications, similar to phone conversations. For example, as determined on an individual basis by the end-user, transitory messages may include notes or drafts; unwanted and unneeded junk mail; personal mail unrelated to school business; unsolicited sectarian, religious, partisan, political or commercial messages, or controversial topics or positions. There is no retention requirement for transitory messages. Employees sending or receiving such communications may delete them immediately without obtaining approval.

- B. Less than permanent retention records: These records are governed by the retention period for equivalent hard copy records, as specified in the approved records retention and disposition schedules. These records should be converted to hard copy (printed) or an electronic format, which can be retrieved and interpreted (downloaded) for the legal retention period. Employees creating or receiving such communications may delete or destroy the records only according to the applicable retention schedule. Questions relating to the retention or destruction of these records should be referred to the superintendent.
  - C. Permanent/archival retention records: These are records scheduled for transfer to the Nebraska State Historical Society (NSHS). Decisions relating to such records should be made by the superintendent in consultation with NSHS, and the State Records Administrator about either transferring the records or maintaining them in the agency of origin. If the transfer decision is made, the method, frequency and format of the transfer should be determined cooperatively by the superintendent, the NSHS, and the State Records Administrator.
- III. Electronic Storage Limitations: The school district's computer systems have storage limitations. End-users are instructed that electronic messages which are required to be maintained should be converted to hard copy (printed) or an electronic format which can be retrieved and interpreted (downloaded) for the legal retention period. The retention period for the particular record is the best indicator of which storage medium or format to choose.
- IV. Proper Use of Electronic Messages:
- A. Non-Discrimination: Electronic messaging is not permitted to be used to promote discrimination on the basis of race, color, national origin, age, marital status, sex, political affiliation, religion, disability or sexual preference; promote sexual harassment; or to promote personal, political, or religious business or beliefs.
  - B. Permissible Use: Electronic messaging is to be used only for purposes that are consistent with the mission of the school district. Electronic messaging is not permitted to be used for personal purposes except for incidental, intermittent or occasional use which does not interfere with performance of duties as determined by the administration or for use that is authorized pursuant to an individual use agreement or use that represents a form of the employee's compensation. Electronic messaging is not permitted to be used for personal financial gain or for the purpose of campaigning for or against the nomination or election of a candidate or the qualification, passage, or defeat of a ballot question. Electronic messaging is not permitted to be used for purposes of assisting a non-profit organization except when and to the extent such use serves a school purpose or facilitates school district business.

- C. Conduct: Employees shall not read electronic messages received by another employee when there is no school purpose for doing so, send electronic messages under another employee's name without the employee's consent or administrative authorization, or change or alter any portion of a previously sent electronic message without administrative authorization.
- D. Other Regulations: Electronic messaging is subject to all requirements of the school district's policies which cover acceptable use of electronic devices including, BUT NOT LIMITED to computers, networks, internet and websites which may be monitored and accessed at any time without prior notice. The school district has complete authority to regulate all electronic messaging. Electronic messaging is a privilege and not a property right and is not a public forum. Electronic messaging is made available subject to all board policy and regulations, which include building guidelines, use agreements, handbook provisions, and all administrative orders or directives as issued.
- E. Electronic Records: All books, papers, documents, reports and records kept by the District may be retained as electronic records. Minutes of meetings of the school board may be kept as an electronic record.

V. Litigation:

When litigation against the school district or its employees is filed or threatened, the school district will take all reasonable action to preserve all documents and records which pertain to the issue.

When the school district is made aware of pending or threatened litigation, a litigation hold directive will be issued by the superintendent or designee. The directive will be given to all persons suspected of having records which may pertain to the litigation issue.

The litigation hold directive overrides any records retention schedule which may otherwise call for the disposition or destruction of the records until the litigation hold has been lifted. E-mail and computer accounts of separated employees which have been placed on a litigation hold will be maintained by the superintendent until the hold is released.

Employees who receive notice of a litigation hold are to preserve all records that pertain to the litigation issue. This includes preserving electronic messages which would otherwise be deleted by the computer system; such messages are to be converted by the recipients of the litigation hold to hard copy (printed) or electronic format which can be retrieved and interpreted (downloaded) for the duration of the litigation hold.

No employee who has been notified of a litigation hold may alter or delete an electronic or other record which falls within the scope of the hold. Violation of the litigation hold may subject the employee to disciplinary actions, up to and including dismissal, as well

as personal liability for civil and/or criminal sanctions by the courts or law enforcement agencies.

VI. Settlement Agreements:

A public written or electronic record of all settled claims shall be maintained. The record for all such claims settled in the amount of fifty thousand dollars or more (or one percent of the total annual budget of the school district, whichever is less) shall include a written executed settlement agreement. The settlement agreement shall contain a brief description of the claim, the party or parties released under the settlement, and the amount of the financial compensation, if any, paid by or to the school district or on its behalf. Any such settlement agreement shall be included as an agenda item at the next regularly scheduled public meeting of the school board for informational purposes or for approval if required.

Any such settled claim or settlement agreement shall be a public record. However, specific portions of the record may be withheld from the public to the extent permitted or provided by statute. The preceding does not apply to claims made in connection with insured or self-insured health insurance contracts.

Community RelationsPersonnel - All Employees and StudentsAnti-discriminationA. **Elimination of Discrimination.**

The policy of [Name] Public Schools is to not discriminate on the basis of sex, disability, race, color, religion, veteran status, national or ethnic origin, age, marital status, pregnancy, childbirth or related medical condition, sexual orientation or gender identity, or other protected status, in admission or access to, or treatment with regard to employment or with regard to its programs and activities.

[Name] Public Schools and its staff shall comply with all state and federal laws prohibiting discrimination. The Board of [Name] Public Schools intends to take any necessary measures to assure compliance with such laws against any prohibited form of discrimination and directs its staff to take all actions necessary to meet this objective.

The Superintendent shall be the Coordinator for anti-discrimination laws (including Title VI, Title IX; the Americans with Disabilities Act of 1990 (ADA), and Section 504 of the Rehabilitation Act of 1973 (Section 504)) and complaints or concerns involving discrimination or compliance with those laws should be addressed to said Coordinator.

B. **Preventing Harassment and Discrimination of Employees and Students.**

1. **Purpose:** [Name] Public Schools is committed to offering employment and educational opportunity to its employees and students based on ability and performance in a climate free of discrimination. Accordingly, unlawful discrimination or harassment of any kind by administrators, teachers, co-workers or other persons is prohibited. In addition, [Name] Public Schools will try to protect employees or students from reported discrimination or harassment by non-employees or others in the work place and educational environment.

For purposes of this policy, discrimination or harassment based on a person's sex, disability, race, color, religion, veteran status, national or ethnic origin, age, marital status, pregnancy, childbirth or related medical condition, sexual orientation or gender identity, or other protected status, is prohibited. The following are general definitions of what might constitute prohibited harassment.

a. In general, ethnic or racial slurs or other verbal or physical conduct relating to a person's sex, disability, race, color, religion, veteran status, national or ethnic origin, age, marital status, pregnancy, childbirth or related medical condition, sexual orientation or gender identity, or other protected status, constitutes harassment when they unreasonably interfere with the person's work performance or create an intimidating work, instructional or educational

environment.

- b. Age harassment has been defined by federal regulations as a form of age discrimination. It can consist of demeaning jokes, insults or intimidation based on a person's age.
- c. Sexual harassment has been defined by federal and state regulations as a form of sex discrimination. It can consist of unwelcome sexual advances, requests for sexual favors, or physical or verbal conduct of a sexual nature by supervisors or others in the work place, classroom or educational environment.

Sexual harassment may exist when:

- (a) Supervisors or managers make submission to such conduct either an explicit or implicit term and condition of employment (including hiring, compensation, promotion, or retention);
- (b) Submission to or rejection of such conduct is used by supervisors or managers as a basis for employment related decisions such as promotion, performance evaluation, pay adjustment, discipline, work assignment, etc.
- (c) The conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile, or offensive working, class room or educational environment.

Sexual harassment may include explicit sexual propositions, sexual innuendo, suggestive comments, sexually oriented "kidding" or "teasing", "practical jokes", jokes about gender-specific traits, foul or obscene language or gestures, displays of foul or obscene printed or visual material, and physical contact, such as patting, pinching or brushing against another's body.

2. **Procedures:**

- a. Employees or students should initially report all instances of discrimination or harassment to their immediate supervisor or teacher. However, if the employee or student is uncomfortable in presenting the problem to the supervisor or teacher, or if the supervisor or teacher is the problem, the employee or student is encouraged to go to the next level of supervision.
- b. If the report is not satisfactorily resolved within ten calendar days, or if the discrimination or harassment continues, please report your complaint to the Superintendent of [Name] Public Schools.
- c. If a satisfactory arrangement cannot be obtained through the Superintendent, the complaint may be processed to the Board of Education.

- d. The person to whom the complaint is made is to thoroughly investigate the complaint and work with the person filing the complaint to seek an appropriate resolution so the discrimination or harassment can be remedied and put to an end.
- e. Complaints of discrimination or harassment will be treated with the utmost confidence, consistent with resolution of the problem.
- f. Based on the results of the investigation, appropriate corrective action, up to and including discharge of offending employees, etc., may be taken.
- g. Under no circumstances will a supervisor or a teacher or the Board threaten or retaliate against a person for alleging discrimination or harassment.

Legal Reference: Title VI, 42 U.S.C. Sec. 2000d, Title VII, 42 U.S.C. Sec. 2000e, Title IX; 20 U.S.C. Sec. 1681, and the Nebraska Fair Employment Practices Act, Neb. Rev. Stat. Sec. 48-1101 et seq.  
Age Discrimination in Employment Act (ADEA), the Older Workers Benefit Protection Act (OWBPA), 29 U.S.C. Sec. 621 et seq., and the Nebraska Age Discrimination in Employment Act, Neb. Rev. Stat. Sec. 48-1001 et seq.;  
Americans with Disabilities Act (ADA), 42 U.S.C. Sec. 12101 et seq.  
Section 504 of the Rehabilitation Act of 1973 (Section 504)  
Pregnancy Discrimination Act, 42 U.S.C. Sec. 2000e(k)  
Uniform Service Employment and Reemployment Rights Act (USERRA), 38 U.S.C. Sec. 4301 et seq.  
Neb. Rev. Stat. Sec. 79-2,115, et seq

Date of Adoption: [Insert Date]

Business OperationsRecords Management and Disposition

1. General Standard. Records should generally be organized, managed, retained and disposed of in accordance with law and the Secretary of State's schedules for retention and disposition of public records.
2. Records Officer. The Superintendent is hereby designated as the records officer of the school district for purposes of this policy. Any questions about the type or category of a record or the required retention period for it should be addressed to the records officer.
3. Electronic Messages. Electronic messages are communications using an electronic system for the conduct of school district business internally, between other state and local government agencies, and with parents, students, patrons and others in the outside world. These messages may be in the form of e-mail, electronic document exchange (electronic fax), and electronic data interchange (EDI). In this policy, the terms electronic messages and e-mail are used, depending on the context, to mean the same thing. The school district's electronic system in which records are collected, organized, and categorized to facilitate preservation, retrieval, use, and disposition is as follows:
  - a. End-User Management. End-user means anyone who creates or receives electronic messages on the school district's electronic system. Electronic messages are to be managed at the end-user's desktop rather than from a central point. Each end-user is responsible for organizing, managing and disposing of records that are part of his or her desktop computer.
  - b. Categories for Retention. Electronic messages fall within three categories: (1) transitory messages; (2) records with a less than permanent retention period; and (3) records with a permanent retention period. End-users are to organize, store, retain and dispose of electronic messages according to these three categories. This means determining which electronic messages require long-term retention, determining who is responsible for making this decision, and establishing storage and disposition requirements for electronic messages.
    - i. *Transitory messages*. Transitory messages include copies posted to several persons and casual and routine communications similar to telephone conversations. For example, as determined on an individual case-by-case basis by the end-user, transitory messages include certain embryonic materials, notes or drafts; unwanted and unneeded "junk" mail; "personal" mail for employees not related to school business; unsolicited sectarian, religious, partisan, political or commercial messages, or political advertising or advertisements promoting particular personal or religious beliefs, a specific ballot question, or controversial topics or positions. There is no retention requirement for transitory messages. Employees sending or

receiving such communications may delete them immediately without obtaining approval.

- ii. *Less than permanent retention records.* These records are governed by the retention period for equivalent hard copy records as specified in the approved records retention and disposition schedules. These records should be converted to hard copy (printed) or an electronic format which can be retrieved and interpreted (downloaded) for the legal retention period. Employees creating or receiving such communications may delete or destroy the records only according to the applicable retention schedule. Questions relating to the retention or destruction of these records should be referred to the records officer.
  - iii. *Permanent/archival retention records.* These are records scheduled for transfer to the Nebraska State Historical Society (NSHS). Decisions relating to such records should be made by the records officer in consultation with NSHS, and the State Records Administrator about either transferring the records or maintaining them in the agency of origin. If the transfer decision is made, the method, frequency and format of the transfer should be determined cooperatively by the records officer, the NSHS, and the State Records Administrator.
- c. Electronic Storage Limitations. The district's computer systems have storage limitations. E-mails are deleted by the computer system within 60 to 90 days to avoid operational problems. End-users are instructed that electronic messages that are required to be maintained past that time period should be converted to hard copy (printed) or an electronic format which can be retrieved and interpreted (downloaded) for the legal retention period. The retention period for the particular record is the best indicator of which storage medium or format to choose.
- d. Proper Use of Electronic Messages.
- i. Non-Discrimination. Electronic messaging is not permitted to be used to promote discrimination on the basis of sex, disability, race, color, religion, veteran status, national or ethnic origin, age, marital status, pregnancy, childbirth or related medical condition, sexual orientation or gender identity, or other protected status; promote sexual harassment; or to promote personal, political, or religious business or beliefs.
  - ii. Permissible Use. Electronic messaging is to be used only for purposes that are consistent with the mission of the school district. Electronic messaging is not permitted to be used for personal purposes except for: incidental, intermittent or occasional use which does not interfere with performance of duties as determined by the administration, use that is authorized pursuant to an individual use agreement, and use that represents a form of the employee's compensation. Electronic messaging is not permitted to be used

for personal financial gain or for the purpose of campaigning for or against the nomination or election of a candidate or the qualification, passage, or defeat of a ballot question. Electronic messaging is not permitted to be used for purposes of assisting a non-profit organization except when and to the extent such use serves a school purpose or facilitates school district business.

- iii. Conduct. Employees shall not read electronic messages received by another employee when there is no school purpose for doing so, send electronic messages under another employee's name without the employee's consent or administrative authorization, or change or alter any portion of a previously sent electronic message without administrative authorization.
- iv. Other Regulations. Electronic messaging is subject to all requirements of the school district's "Acceptable Use of Computers, Network, Internet and Websites" policy and may be monitored and accessed at any time without prior notice. The school district has complete authority to regulate all electronic messaging. Electronic messaging is a privilege and not a property right and is not a public forum. Electronic messaging is made available subject to all board policy and regulations, these regulations, building guidelines, use agreements, handbook provisions, and all administrative orders or directives as issued from time to time.

#### 4. Electronic Records

All books, papers, documents, reports, and records kept by the District may be retained as electronic records. Minutes of the meetings of the school board may be kept as an electronic record.

#### 5. Litigation Holds

When litigation against the District or its employees is filed or threatened, the District will take all reasonable action to preserve all documents and records that pertain to the issue. Such action will in particular be taken when the litigation may be filed in federal court or otherwise subject to federal rules of discovery.

As soon as the District is made aware of pending or threatened litigation, a litigation hold directive will be issued by the records officer or designee. The directive will be given to all persons suspected of having records that may pertain to the litigation issue.

The litigation hold directive overrides any records retention schedule that may otherwise call for the disposition or destruction of the records until the litigation hold has been lifted. E-mail and computer accounts of separated employees that have been placed on a litigation hold will be maintained by the records officer until the hold is released.

Employees who receive notice of a litigation hold are to preserve all records that pertain to the litigation issue. This includes preserving electronic messages that would otherwise be deleted by

the computer system; such messages are to be converted by the recipients of the litigation hold to hard copy (printed) or electronic format which can be retrieved and interpreted (downloaded) for the duration of the litigation hold.

No employee who has been notified of a litigation hold may alter or delete an electronic or other record that falls within the scope of the hold. Violation of the litigation hold may subject the employee to disciplinary actions, up to and including dismissal, as well as personal liability for civil and/or criminal sanctions by the courts or law enforcement agencies.

6. Settlement Agreements

A public written or electronic record of all settled claims shall be maintained.

The record for all such claims settled in the amount of fifty thousand dollars or more (or one percent of the total annual budget of the School District, whichever is less) shall include a written executed settlement agreement. The settlement agreement shall contain a brief description of the claim, the party or parties released under the settlement, and the amount of the financial compensation, if any, paid by or to the School District or on its behalf. Any such settlement agreement shall be included as an agenda item on the next regularly scheduled public meeting of the School Board for informational purposes or for approval if required.

Any such settled claim or settlement agreement shall be a public record. Nonetheless, specific portions of the record may be withheld from the public to the extent permitted or provided by statute.

The foregoing does not apply to claims made in connection with insured or self-insured health insurance contracts.

Legal Reference: Neb. Rev. Stat. Sections 84-712 through 84-712.09  
Neb. Rev. Stat. Sections 84-1201 to 84-1227  
Laws 2010, LB 742  
State Records Administrator Guidelines:  
Schedule 10: Records of Local School Districts (Feb. 1989)  
Schedule 24: Local Agencies General Records (March 2005)  
Electronic Imaging Guidelines (March 2003)

Date of Adoption: [Insert Date]

Personnel - All Employees (& Students)Anti-discrimination, Anti-harassment, and Anti-retaliation**A. Elimination of Discrimination.**

The [Name] 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.

The [Name] Public Schools does not discriminate on the basis of sex, disability, race, color, religion, veteran status, national or ethnic origin, age, marital status, pregnancy, childbirth or related medical condition, sexual orientation or gender identity, or other protected status in its programs and activities and provides equal access to the Boy Scouts and other designated youth groups. Reasonable accommodations will be provided to employees with disabilities and to those who are pregnant, have given birth, or have a related medical condition, as required by law. The following persons have been designated to handle inquiries regarding the non-discrimination policies:

Students: [Name of Director], Director of Student Services [or other title], [Street Address], [City], NE [Zip Code] (\_\_\_\_) \_\_\_\_ - \_\_\_\_ ([Email Address]).

Employees and Others: [Name of Director], Human Resources Director [or other title], [Street Address], [City], NE [Zip Code] (\_\_\_\_) \_\_\_\_ - \_\_\_\_ ([Email Address]).

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

**B. Prohibited Harassment, Discrimination, and Retaliation of Employees, Students and Others.****1. Purpose:**

The [Name] Public Schools is committed to offering employment and educational opportunities to its employees and students in a climate free of discrimination. Accordingly, unlawful discrimination, harassment or 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 sex, disability, race, color, religion, veteran status, national or ethnic origin, age, marital status, pregnancy, childbirth or related medical condition, sexual orientation or gender identity, or other protected status, 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 sex, disability, race, color, religion, veteran status, national or ethnic origin, age, marital status, pregnancy, childbirth or related medical condition, sexual orientation or gender identity, or other protected status, 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 grades, 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 coordinator designated to handle complaints of discrimination (designated compliance coordinator).

## **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 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. If retaliation occurs, the District will take prompt and strong responsive action, including possible discipline, including expulsion or termination, if applicable.

## **3. Grievance (or Complaint) Procedures:**

Employees or students should initially report all instances of discrimination, harassment or retaliation to their immediate supervisor or teacher or to the compliance coordinator designated to handle complaints of discrimination. If the employee or student is uncomfortable in presenting the problem to the supervisor or teacher, or if the supervisor or teacher is the problem, the employee or student may report the alleged discrimination, harassment or retaliation to the designated coordinator, or in the case of students, to another staff person (such as a counselor or principal).

Other individuals may report alleged discrimination to the designated coordinator. If the designated coordinator 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 coordinators.

Under no circumstances will a person filing a complaint or grievance involving discrimination be retaliated against for filing the complaint or grievance.

*i. Level 1 (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 promptly 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 aim to complete its investigation within **ten (10) 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. If extenuating circumstances exist, the extended timeframe to complete the investigation will **not exceed ten (10) additional working days without the consent of the complainant, unless the alleged victim agrees to a longer timeline.** Periodic status updates will be given to the parties, when appropriate.

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 coordinator (or designated investigator) will complete an investigative report, which will include:

- a. A summary of the facts,
- b. Findings regarding whether discrimination, harassment or other inappropriate conduct occurred, and
- c. If a finding is made that discrimination, harassment or other inappropriate conduct occurred, the recommended remedy or remedies necessary to eliminate such discrimination, harassment or other inappropriate conduct.

If someone other than the designated compliance coordinator conducted the investigation, the compliance coordinator 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. 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 **one (1) working day** after the investigation is completed. The Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. Sec. 11232g; 34 C.F.R. Part 99, permits the District to disclose relevant information to a student who was discriminated against or harassed.

*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 **five (5) working days** after receiving the decision. The Superintendent 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 coordinator. [If the Superintendent is the subject of the complaint, the party will file the appeal directly with the Board.]

*iii. Level 3 (Appeal to the Board):*

If the party is not satisfied with the Superintendent's determination, he or she may file an appeal in writing with the Board of Education **within five (5) working days** after receiving the Superintendent's determination. The Board of Education will review the appeal, the Superintendent's determination, the investigative documentation and decision, and allow the party to address the Board at a Board meeting to present his or her appeal. The party will be allowed to address the Board at the Board's next regularly scheduled Board meeting (unless the Board receives the appeal within one week of the next regularly scheduled Board meeting) or at a time and date agreed to by the Board, designated compliance officer and the party. The Board will issue a written determination about the appeal **within thirty (30) days** after the party addresses the Board. The party who filed the appeal will be sent the Board's determination at the time it is issued, and a copy will be sent to the designated compliance coordinator. The Board's determination, and any actions taken, will be final on behalf of the District.

**4. 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 students. 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.

**5. Training:**

The District will ensure that relevant District employees 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.

In addition, the District shall ensure that employees designated to address or investigate discrimination, harassment, and retaliation, including designated compliance coordinators, receive 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.

**6. Designated Compliance Coordinators:**

Designated compliance coordinators 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 students and 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 coordinator 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 District's law enforcement unit 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 students or 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 coordinator and responding to the allegations.
- j. Recommending changes to this policy and grievance procedure.
- k. Performing other duties as assigned.

**7. 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 Coordinator section, above, for further information on compliance coordinator), 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 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.

Legal Reference: Title VI, 42 U.S.C. Sec. 2000d, Title VII, 42 U.S.C. Sec. 2000e, Title IX; 20 U.S.C. Sec. 1681, and the Nebraska Fair Employment Practices Act, Neb. Rev. Stat. Sec. 48-1101 et seq.  
Age Discrimination in Employment Act (ADEA), the Older Workers Benefit Protection Act (OWBPA), 29 U.S.C. Sec. 621 et seq., and the Nebraska Age Discrimination in Employment Act, Neb. Rev. Stat. Sec. 48-1001 et seq.;

Americans with Disabilities Act (ADA), 42 U.S.C. Sec. 12101 et seq.  
Section 504 of the Rehabilitation Act of 1973 (Section 504)  
Pregnancy Discrimination Act, 42 U.S.C. Sec. 2000e(k)  
Uniform Service Employment and Reemployment Rights Act (USERRA), 38 U.S.C. Sec. 4301 et seq.  
Neb. Rev. Stat. Sec. 79-2,115, et seq

Date of Adoption: [Insert Date]

## Students

### Admission Requirements

#### Minimum Age:

A child shall be eligible for admission into kindergarten at the beginning of the school year if the child is five years of age or will be five years of age on or before July 31 of the calendar year in which the school year for which the child is seeking admission begins. The School Board shall admit a child who will reach the age of five years on or after August 1 and on or before October 15 of such school year if the parent or guardian requests such entrance and provides an affidavit stating that (i) the child attended kindergarten in another jurisdiction in the current school year; (ii) the family anticipates a relocation to another jurisdiction that would allow admission within the current year; or (iii) the child is capable of carrying the work of kindergarten which can be demonstrated through a recognized assessment procedure approved by the Board.

#### Early Admission to Kindergarten:

The following assessment procedure for determining if a child is capable of carrying the work of kindergarten is approved and shall be made available to interested persons:

Early kindergarten enrollment exceptions may be made for younger children who are intellectually advanced. At a minimum, eligibility for the admission shall be based upon an analysis of the child's: (1) mental ability, (2) emotional/social development, (3) pre academic skills, and (4) fine motor skills.

The kindergarten early entrance assessment procedures are designed to identify and place in kindergarten those children who:

- a. will turn 5 years of age between August 1 and October 15;
- b. are deemed by parents or guardians as being intellectually advanced and likely to benefit from advanced grade placement; and
- c. are selected on the basis of testing by professionals trained and certified to administer the assessments that will produce evidence of strength in:
  1. mental ability defined as scoring 84th percentile or above on a standardized assessment of cognitive ability such as the Wechsler Pre Primary Scale of Intelligence III, or the Stanford-Binet V;
  2. a test of emotional/social development such as the Behavior Assessment System for Children, Second Edition (BASC-2);
  3. 75th percentile or greater on a test of pre academic skills such as the Woodcock Johnson III; and
  4. a test of fine motor ability, scoring 75th percentile or above on a standardized measurement such as the Beery VMI.

In the discretion of the Superintendent or designee, the assessments may be administered by the School District's professional staff, or the parents or guardians may be required, at their own expense, to have all or some of the required assessments completed by

reputable professionals and to submit the results of such assessments to the School District.

The decision regarding early entrance to kindergarten requires careful consideration of all factors that affect kindergarten success with final determination to be made based on the recommendation of the District Evaluation Team, to be composed of such individuals as the Superintendent or designee determine appropriate. The academic, social, and emotional readiness, as well as the student's physical development and well-being, must be weighed with institutional factors also considered. Sound decision making in the area of early entrance to kindergarten is dependent upon reliable information regarding a student's readiness and a thoughtful balancing of the myriad of factors implicated by the decision. Parents will be notified in writing of the results of the Early Kindergarten Entrance assessment and the determination of the District Evaluation Team in a timely fashion; not to exceed three weeks after the assessments are completed.

Families who seek early admission of their child into kindergarten must obtain an *Early Entrance to Kindergarten Packet* from the School District Administration.

Parents must fill out the early entrance application forms, which include a parent questionnaire and obtain and attach a reference letter from someone who is well acquainted with the child but not a relative of the child. The person providing this reference should know the child well enough that they can speak with some expertise about the child's attributes and abilities. The reference letter should indicate whether this person recommends the child be schooled with children who will be a year older than the child and, if so, the evidence this person has concerning the child's mental ability, fine and gross motor ability, visual and auditory discrimination, emotional/social development, and communication skills. Suggestions for this reference letter are a preschool teacher, a Sunday school teacher, a day-care provider, or a physician.

The assessment request, reference letter and parent questionnaire must be completed and returned to the District no later than May 25th of the spring before fall enrollment to allow summer assessment to be completed.

Decisions regarding early kindergarten entrance must include consideration of the above and shall not be made based on sex, disability, race, color, religion, veteran status, national or ethnic origin, age, marital status, pregnancy, childbirth or related medical condition, sexual orientation or gender identity, or other protected status of the child or the child's parents or guardians. Institutional factors, such as capacity, may also be considered.

Admission to First Grade:

A child may be eligible to enter first grade, even if the child has not attended kindergarten, if the child is six years of age or will be six years of age on or before October 15 of the current school year and school officials determine that first grade is the appropriate placement for the child.

Graduates:

A student who has received a high school diploma or received a General Equivalency Diploma shall not be eligible for admission or continued enrollment.

Age 21:

A student shall not be admitted or continued in enrollment after the end of the school year in which the student reaches the age of 21. The school year for this purpose ends at the last day of instruction for graduating seniors.

Birth Certificate, Physical, Visual Evaluation and Immunization:

The parents or legal guardian shall furnish:

- (1) A certified copy of the student's birth certificate issued by the state in which the child was born, upon admission of a child for the first time, shall be provided within 30 days of enrollment. Other reliable proof of the child's identify and age, accompanied by an affidavit explaining the inability to produce a copy of the birth certificate, may be used in lieu of a birth certificate. An affidavit is defined as a notarized statement by an individual who can verify the reason a copy of the birth certificate cannot be produced. (Failure to provide the birth certificate does not result in non-enrollment or disenrollment, but does result in a referral to local law enforcement for investigation).
- (2) Evidence of a physical examination by a physician, physician assistant, or nurse practitioner, within six months prior to the entrance of the child into the beginner grade and the seventh grade or, in the case of a transfer from out of state, to any other grade, unless the parent or legal guardian submits a written statement objecting to a physical examination.
- (3) Evidence of a visual evaluation by a physician, a physician assistant, an advanced practice registered nurse, or an optometrist, within six months prior to the entrance of the child into the beginner grade or, in the case of a transfer from out of state, to any other grade, unless the parent or legal guardian submits a written statement objecting to a visual evaluation. The visual evaluation is to consist of testing for amblyopia, strabismus, and internal and external eye health, with testing sufficient to determine visual acuity.
- (4) Evidence of protection against diphtheria, tetanus, pertussis, polio, measles, mumps, and rubella, Hepatitis B, Varicella (chicken pox), Haemophilus Influenzae type b (Hib), invasive pneumococcal disease and other diseases as required by applicable law, by immunization, prior to enrollment, unless the parent or legal guardian submits a written statement that establishes than an exception to the immunization requirements are met.
- (5) Every student entering the seventh grade shall have a booster immunization containing diphtheria and tetanus toxoids and an acellular pertussis vaccine which meets the standards approved by the United States Public Health Service for such

biological products, as such standards existed on January 1, 2009.

The Superintendent or Superintendent's designee shall notify the parent or guardian in writing of the foregoing requirements and of the right to submit affidavits or statements to object to the requirements, as applicable. The Superintendent or Superintendent's designee shall also provide a telephone number or other contact information to assist the parent or guardian in receiving information regarding free or reduced-cost visual evaluations for low-income families who qualify.

A student who fails to meet the foregoing requirements shall not be permitted to enroll or to enter school, or if provisionally enrolled or enrolled without compliance, shall not be permitted to continue in school until evidence of compliance or an exemption from compliance is given.

#### Enrollment of Expelled Students

If a student has been expelled from any public school district in any state, or from a private, denominational, or parochial school in any state, and the student has not completed the terms or time period of the expulsion, the student shall not be permitted to enroll in this school district until the expulsion period from such other school has expired, unless the School Board of this school district in its sole and absolute discretion upon a proper application approves by a majority vote the enrollment of such student prior to expiration of the expulsion period. As a condition of enrollment, the School Board may require attendance in an alternative school, class or educational program pursuant to Nebraska law until the terms or time period of the original underlying expulsion are completed. A student expelled from a private, denominational, or parochial school or from any public school in another state, will not be prohibited from enrolling in the public school district in which the student resides or in which the student has been accepted pursuant to the enrollment option program for any period of time beyond the time limits placed on expulsion, pursuant to the Student Discipline Act, or for any expulsion for an offense for which expulsion is not authorized for a public school student under such Act. For purposes of this policy, the term expulsion or expelled includes any removal from any school for a period in excess of twenty (20) school days.

#### Military Families

If a parent presents evidence to the District of military orders that military family will be stationed in the State of Nebraska during the current or following school year, the District will enroll preliminarily the parent's students.

Legal Reference:     Neb. Rev. Stat. Sections 43-2001 to 43-2012  
                          Neb. Rev. Stat. Sec. 79-214  
                          Neb. Rev. Stat. Sections 79-217 to 79-223  
                          Neb. Rev. Stat. Sec. 79-266.01  
                          173 NAC Chapters 3 and 4 (HHS Regulations)

Date of Adoption: [Insert Date]

Students (& Employees)Anti-discrimination, Anti-harassment, and Anti-retaliation**A. Elimination of Discrimination.**

The [Name] Public School District 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.

The [Name] Public School District does not discriminate on the basis of sex, disability, race, color, religion, veteran status, national or ethnic origin, age, marital status, pregnancy, childbirth or related medical condition, sexual orientation or gender identity, or other protected status in its programs and activities and provides equal access to the Boy Scouts and other designated youth groups. The following persons have been designated to handle inquiries regarding the non-discrimination policies:

Students: [Name of Director], Director of Student Services [or other title], [Street Address], [City], NE [Zip Code] (\_\_\_\_) \_\_\_\_-\_\_\_\_ ([Email Address]).

Employees and Others: [Name of Director], Human Resources Director [or other title], [Street Address], [City], NE [Zip Code] (\_\_\_\_) \_\_\_\_-\_\_\_\_ ([Email Address]).

Complaints or concerns involving discrimination or needs for accommodation or access should be addressed to the appropriate Coordinator. 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 OCR at One Petticoat Lane, 1010 Walnut Street, 3rd Floor, Suite 320, Kansas City, Missouri 64106, (816) 268-0550 (voice), Fax (816) 268-0599, (800) 877-8339 (telecommunications device for the deaf), or [ocr.kansascity@ed.gov](mailto:ocr.kansascity@ed.gov).

**B. Prohibited Harassment, Discrimination, and Retaliation of Employees, Students and Others.****1. Purpose:**

The [Name] Public School District is committed to offering employment and educational opportunity to its employees and students 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 sex, disability, race, color, religion, veteran status, national or ethnic origin, age, marital status, pregnancy, childbirth or related medical condition, sexual orientation or gender identity, or other protected status, 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 sex, disability, race, color, religion, veteran status, national or ethnic origin, age, marital status, pregnancy, childbirth or related medical condition, sexual orientation or gender identity, or other protected status, 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 grades, 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 coordinator designated to handle complaints of discrimination (designated compliance coordinator).

**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 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. If retaliation occurs, the District will take prompt and strong responsive action, including possible discipline, including expulsion or termination, if applicable.

**3. Grievance (or Complaint) Procedures:**

Employees or students should initially report all instances of discrimination, harassment or retaliation to their immediate supervisor or teacher or to the compliance coordinator designated to handle complaints of discrimination (designated coordinator). If the employee or student is uncomfortable in presenting the problem to the supervisor or teacher, or if the supervisor or teacher is the problem, the employee or student may report the alleged discrimination, harassment or retaliation ("discrimination") to the designated coordinator, or in the case of students, to another staff person (such as a counselor or principal).

Other individuals may report alleged discrimination to the designated coordinator. If the designated coordinator 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 coordinators.

Under no circumstances will a person filing a complaint or grievance involving discrimination be retaliated against for filing the complaint or grievance.

*i. Level 1 (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 promptly 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 aim to complete its investigation within **ten (10) 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. If extenuating circumstances exist, the extended timeframe to complete the investigation will **not exceed ten (10) additional working days without the consent of the complainant, unless the alleged victim agrees to a longer timeline.** Periodic status updates will be given to the parties, when appropriate.

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 coordinator (or designated investigator) will complete an investigative report, which will include:

- a. A summary of the facts,
- b. Findings regarding whether discrimination, harassment or other inappropriate conduct occurred, and
- c. If a finding is made that discrimination, harassment or other inappropriate conduct occurred, the recommended remedy or remedies necessary to eliminate discrimination, harassment or other inappropriate conduct.

If someone other than the designated compliance coordinator conducted the investigation, the compliance coordinator 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. 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 **one (1) working day** after the investigation is completed. The Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 11232g; 34 C.F.R. Part 99, permits the District to disclose relevant information to a student who was discriminated against or harassed.

*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 **five (5) working days** after receiving the decision. The Superintendent 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 coordinator. [If the Superintendent is the subject of the complaint, the party will file the appeal directly with the Board.]

*iii. Level 3 (Appeal to the Board):*

If the party is not satisfied with the Superintendent’s determination, he or she may file an appeal in writing with the Board of Education **within five (5) working days** after receiving the Superintendent’s determination. The Board of Education will review the appeal, the Superintendent’s determination, the investigative documentation and decision, and allow the party to address the Board at a Board meeting to present his or her appeal. The party will be allowed to address the Board at the Board’s next regularly scheduled Board meeting (unless the Board receives the appeal within one week of the next regularly scheduled Board meeting) or at a time and date agreed to by the Board, designated compliance officer

and the party. The Board will issue a written determination about the appeal **within thirty (30) days** after the party addresses the Board. The party who filed the appeal will be sent the Board's determination at the time it is issued, and a copy will be sent to the designated compliance coordinator. The Board's determination, and any actions taken, will be final on behalf of the District.

**4. 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 students. 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,

**5. Training:**

The District will ensure that relevant 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.

**6. Designated Compliance Coordinators:**

Designated compliance coordinators 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 students and 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 coordinator 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 District's law enforcement unit 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 students or 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 coordinator and responding to the allegations.
  - j. Recommending changes to this policy and grievance procedure.
  - k. Performing other duties as assigned.

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

**7. 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 Coordinator section, above, for further information on compliance coordinator), 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 and students 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.

Date of Adoption: [Insert Date]