Federal and State Harassment and Discrimination Protections Policy Guide

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Colorado Association of School Boards

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Public school districts in Colorado must comply with a comprehensive set of state and federal laws and regulations prohibiting harassment and discrimination. These laws safeguard students, staff, and the general public from unwelcome conduct based on protected characteristics. This guide outlines the key requirements and best practices, including explanations of CASB's choices made in our May 10, 2024 Special Policy Update.

Federal Discrimination Laws

Federal civil rights laws prohibit districts from discriminating against students and staff by treating someone unfairly or unfavorably because of their protected class. Protected class refers to a group of people with certain characteristics or attributes that are considered fundamental to a person's identity, and includes race, color, religion, sex, and many others depending on Colorado and federal state law. Discrimination could occur in admissions, recruitment, financial aid, academic programs, student treatment and services, counseling and guidance, discipline, classroom assignment, grading, vocational education, recreation, physical education, athletics, housing, and employment.

Federal laws protecting students and staff from discrimination include *Title VI of the Civil Rights Act of 1964*, which prohibits discrimination on the basis of race, color, or national origin in all

programs or activities that receive Federal financial assistance,[1] *Section 504 of the Rehabilitation Act of 1973*, which prohibits discrimination on the basis of disability in all programs or activities that receive Federal financial assistance,[2] *Title VII of the Civil Rights Act of 1964,* which prohibits employee discrimination on the basis of race, color, religion, sex, and national origin, and *Title IX of the Education Amendments of 1972*, which prohibits discrimination on the basis of sex in all education programs or activities that receive Federal financial assistance.[3] These laws and associated regulations require districts to clearly outline prohibited forms of discrimination, provide procedures for reporting complaints, ensure investigations are conducted promptly and impartially, and guarantee protection against retaliation for reporting discrimination or harassment. Previous to the 2024 Title IX Regulations, Title IX required an investigation process with a Title IX Coordinator, Investigator, and Decision Maker who have designated roles and responsibilities. Prior to May 2024, CASB's policy AC-R-1 included the process of investigations that may violate federal law other than Title IX, and policy AC-R-2* included Title IX investigation procedure.

Colorado Discrimination Laws

SB23-296 and Protecting Students from Harassment

SB23-296, a Colorado bill passed in 2023, expands Title IX's protections and add additional requirements for investigations into potential discrimination. Title IX's procedures only apply to sex discrimination, but SB23-296's procedures apply to complaints on the basis of disability, race, creed, color, sex, sexual orientation, gender identity, gender expression, family composition, religion, age, national origin, or ancestry. Protections provided from SB23-296 must be applied even if the conduct is protected under Title IX, so 296 has supplemental requirements to Title IX. Although federal law already protects students from harassment based on many of these protected classes such as race and ethnicity, SB2-296 also proscribes a more detailed investigation process that is more similar to Title IX's requirements as compared to other federal laws.

1. Policies must include the following information:

[1] 34 C.F.R. Part 100

[2] 34 C.F.R. Part 104

[3] 34 C.F.R. Part 106

a. **How to Accept Reports.** A public school shall accept formal reports of harassment or discrimination in writing or in-person; by phone, e-mail, or online form. (Policy must include "all reporting options.")
b. **Contact Info.** Name and contact information for the person designated to receive reports of harassment/discrimination - who may be the Title IX coordinator.
c. **Explanation of Role.** The policy must explain the school's role in responding to reports of harassment or discrimination, preventing recurrence of harassment or discrimination, and remedying effects of the harassment or discrimination.
d. **Hotline**. Must include contact information for resources for victims of violence, including a local, state, or national twenty-four-hour helpline for domestic violence and sexual violence support.
e. **Employee Protocol**. Must explain how employees are to respond to reports or harassment or discrimination. This includes procedures, and must include a prohibition of relying solely on a criminal investigation "in lieu of responding to a report of harassment or discrimination promptly and effectively."
f. **Prohibition on Disciplinary Response**. A school cannot use a student's report of harassment or discrimination, or any information from related investigations, to discipline the reporting student or complainant for engaging in self-defense, consensual sexual activity, drug/alcohol use, tardiness, truancy, unauthorized access, public discussion of the incident, or expressing trauma symptoms. False reports or disciplinary actions to ensure safety are exceptions, but a finding of no harassment or discrimination does not automatically constitute a false report.
g. **Information about Available Accommodations and Supportive Measures.** This includes information about how students can request supportive measures, and an explanation of additional accommodations available for students with disabilities. Excused absences must be granted to a student who has experienced harassment or discrimination for any time the student is out of school because of a therapy, medical, legal, or victim services appointment related to the harassment or discrimination. Other accommodations are at the district's discretion, and may include counseling, extensions of deadlines or other course-related adjustments, extra time for homework or tests, the opportunity to resubmit homework or retake a test, remedying an impacted grade, excused absences, the opportunity for home instruction, modifications to class schedules, and restrictions on contact between the parties to a report of harassment or discrimination. Supportive measures required pursuant to Title IX must also be

provided, and schools may provide any other supportive measures as soon as they receive a report of harassment. A public school shall not require a formal report or finding of harassment or discrimination before providing supportive measures.

2. Procedures must include the following:
    a. Formal reports of harassment or discrimination must be accepted in writing, in person, by phone, email, or online form;
    b. Reports must be kept confidential to the extent possible;
    c. Schools must make a good faith effort to complete investigation and make any findings within sixty days after the report, with a 30-day extension possible;
    d. Parties may have an advisor present at any part of the investigation;
    e. Specify that all questions related to the investigation be directed to the individual conducting the investigation;
    f. The individual or designee conducting the investigation must consider patterns of misconduct as relevant evidence;
    g. Prohibition on retaliation, including certain code of conduct violations;
    h. Written updates must be provided about the status of an investigation or proceeding to the parties and the parties' parents or legal guardians at each stage of the investigation or proceeding, but at least every fifteen business days;
    i. Preponderance of the evidence must be the evidentiary standard;
    j. Concurrent notification must be provided to the parties of the outcome of the investigation and any findings.
3. Districts must also comply with the following requirements:
    a. **Notices.** Each public school must post notices in multiple places in the school, written in simple and age-appropriate language, describing how and to whom a student can report harassment or discrimination to the school. The notices must be conspicuously posted in easily accessible and well-lit places customarily frequented by students and employees.
    b. **Retention**. Each local education provider shall retain the records of a harassment or discrimination report for seven years (the same period of retention as Title IX). The record of a report should include any accommodations or supportive measures taken in response to a report or formal complaint of harassment or discrimination and documentation of the basis for the local education provider's action and response.
    c. **Notification of Policy.** The policy must be available in the following ways: (1) prominently displayed on the district's website, (2) sent electronically to

parents/guardians, (3) sent electronically to students in 6th - 12th grade, (4) by physical copy to each incoming student and their parent/guardian, upon request, and (5) sent annually to employees. The policy must be sent separate from other documents. Spanish versions of the policy must be available upon request. The policy posted on the website must be in English and a school may also post the policy in Spanish.

d. **Training.** Training to all employees, during normal working hours, is required as of July 1, 2024. Employees must complete training upon hiring and at least every three years afterwards. Employees who transfer from a position working with elementary students to secondary students must complete training again upon the transfer. The training must cover the following topics: (1) Recognizing harassment or discrimination, including indicators of grooming and child sexual abuse; (2) The appropriate immediate response when harassment or discrimination is reported to or witnessed by an employee; (3) Reporting harassment or discrimination to the public school or school district; and (4) If the employee has direct supervision of students, the following: The public school's procedure for responding to allegations of harassment or discrimination; the difference between the public school's harassment or discrimination policy adopted pursuant to this section; obligations required by federal law; best practices for avoiding victim-blaming; the effect of trauma on victims of harassment or discrimination; communicating with victims sensitively, compassionately, and in a gender-inclusive and culturally responsive manner; and the impact of harassment or discrimination on students with disabilities; and the types of supportive measures available to students and the provision of effective academic, mental health, and safety accommodations for students who report harassment or discrimination.

SB23-172 and Protecting Staff from Harassment

Under Title VII of the Civil Rights Act of 1964, employers discriminate if they make hiring decisions for employees or prospective employees based on the employee's protected class. Harassment in the workplace is a form of discrimination that becomes unlawful federally if 1) enduring the offensive conduct becomes a condition of continued employment, or 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive. Retaliating against individuals for participating in an investigation or opposing discriminatory practices is also prohibited under federal law.

The Colorado Anti-Discrimination Act (CADA), is Colorado's version of Title VII of the Civil Rights Act of 1964, and also includes protections against age discrimination and disability discrimination in employment that are covered by other federal laws.[4] CADA provides broader protections than its federal counterparts by including additional protected classes of creed, sexual orientation, gender identity, gender expression, marital status, and national origin. School districts must comply with the broader Colorado Anti-Discrimination Act protections. Under CADA, workplace harassment can become discriminatory, but prior to the POWR Act's passing in 2023, there was not a definition of harassment in Colorado statute. According to the bill's legislative statement, major goals of the bill are to encourage employers' adoption of equal employment policies to prevent harassment, and to encourage free reporting and discussion of discriminatory practices.

State and federal cases had previously ruled that harassment at work is discriminatory if it is "severe or pervasive." *See St. Croix v. U. of Colorado Health Scis. Ctr.*, 166 P.3d 230, 242 (Colo. App. 2007). The POWR Act's definition lowered the standard to provide more protections for employees. The new standard prohibits unwelcome harassment if any of the following are true:

- Submission to the conduct or communication is explicitly or implicitly made a term or condition of employment;
- Submission to, objection to, or rejection of the conduct or communication is used as a basis for employment decisions affecting the individual; or
- The conduct or communication has the purpose or effect of unreasonably interfering with the individual's work performance or creating a hostile work environment.

The behavior must also be subjectively offensive to the individual alleging harassment, and objectively offensive to a reasonable member of the same protected class.
The statute further clarifies that:

- The following are not relevant to whether the conduct or communication constitutes harassment:
    - the nature of the work; and
    - the frequency of past workplace harassment.
- Petty slights, minor annoyances, and lack of good manners do not constitute harassment unless they meet the statutory definition when considered under the

[4] Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621, and the Americans with Disabilities Act (ADA), 42 U.S.C. 12101.

totality of the circumstances. Factors to consider under a totality of the circumstances analysis include:

- the frequency of the conduct or communication, recognizing that a single incident may rise to the level of harassment;
- the number of individuals engaged in the conduct or communication;
- the type or nature of the conduct or communication, recognizing that once-welcome actions between two or more individuals may become unwelcome to one or more of those individuals;
- the duration of the conduct or communication;
- where the conduct or communication occurred;
- whether the conduct or communication is threatening;
- whether a power differential exists between the individual alleged to have engaged in harassment and the individual alleging the harassment;
- the use of epithets, slurs, or other humiliating or degrading conduct or communication; and
- whether the conduct or communication reflects stereotypes about an individual or group of individuals in a protected class.

The bill also includes new responsibilities for employers, including school districts, and also encourages some optional policy or program development. The POWR Act provides an affirmative defense available to districts if they are threatened with certain lawsuits. If an employee claims that a supervisor has engaged in harassment by unreasonably interfering with the employee's work performance or creating a hostile work environment, a school district may assert an affirmative defense only by establishing that:

- The employer created a reasonable anti-harassment program, which exists where the employer takes:
  - prompt, reasonable action to investigate or address alleged conduct prohibited by CADA; and
  - takes prompt, reasonable remedial action when warranted in response to complaints of prohibited conduct.
- The employer communicated the existence and details of its anti-harassment program to supervisory and nonsupervisory employees; and
- The employee unreasonably failed to take advantage of the anti-harassment program.

A FAQ document on the POWR Act's changes and information on developing an anti-harassment program can be found **here**.

Overview of CASB Sample Policy Decisions and Notes

The following information will explain policy decisions we have made to incorporate the requirements of SB23-296, SB23-172, and the 2024 Title IX regulations, as well as provide tips for districts if they decide to deviate from our recommendations.

AC and Roadmap

Broad AC. Overall, we recommend a broad AC that directs students, staff, or the public to the right regulation to review. All relevant definitions, such as harassment, discrimination, respondent, etc., are included within AC. The regulations (AC-R-1 and AC-R-2) only include a definition of harassment. Harassment is the only definition that differs based on the regulation, so we believed including the definition was helpful in order to read the regulation effectively. AC-R-3 (Title IX) retains an extensive definitions section as well, due to its different federal requirements.

Definition of discrimination or harassment. In federal and state laws, discrimination occurs when a government entity treats a person differently than others based on their protected class. Harassment is unwelcome conduct that is based on a protected class and may become unlawful discrimination if it creates a hostile environment and the government entity does not remedy the problem.[5] Harassment is a form of discrimination, but the concepts are not identical.

However, SB23-296 includes a definition for "harassment or discrimination," lumping the two behaviors together. The definition itself only refers to unwelcome conduct or communication (behavior typically associated with harassment), not an explanation of conduct likely to be discrimination (disparate treatment or impact by an entity, which may include harassment or discrimination by treating others differently).

Therefore, we thought it would be simpler to use the term "harassment" to describe "harassment or discrimination," as defined in SB23-296. This includes conduct or communications, e.g. verbal insults, unwanted comments, pushing, grabbing, shoving, sexual advances, - actions typically associated with harassing or bullying behavior. To remain

[5] Schools may discriminate under Title VI by allowing a hostile environment or by treating students differently based on their protected class. A school may violate federal anti-discrimination laws if a hostile environment based on a protected class exists, the school knew about the hostile environment, and failed to take prompt and effective steps to end the harassment and prevent its recurrence.

consistent with the federal understanding of discrimination and harassment, and what we believe the intent of SB23-296 is, we did not include a definition of "discrimination or harassment" in policy and separate the concepts.

We did not make separate regulations for federal vs. state complaints. Although the state and federal processes differ slightly, we recommend using the same complaint resolution process, regardless of whether the complaint implicates federal or state law. The only exception to this is Title IX, which is separate because it has many different requirements, and because SB23-296 requires the policy to be separate from Title IX.

The reason we are not including a separate process for federal and state claims is because we believe, effectively, definitions of prohibited conduct are largely the same. There are some protected class differences between federal and state law. However, we ultimately determined that the benefit of simplicity in only having one process would outweigh the risk that a district does a more detailed process than required for certain incidents. However, a district may decide it is appropriate to have a different procedure for claims that could violate federal anti-discrimination laws and claims that could violate state anti-discrimination laws. If that is the case, CASB strongly suggests consulting with the district's attorney to ensure all requirements are met.

Separation of student and staff regulations. We chose to include two different regulations: one for investigations of discrimination against students, and one for investigations against staff and community members. This is because SB23-296 has policy requirements applicable to students that are not applicable to employees, SB23-172 also has different requirements for employees, and the definitions of harassment are slightly different for students and employees. We believe the separation is also appropriate because in practice, communication methods and the steps taken by the district will naturally differ for students as compared to staff.

Intersection between Title IX and state level harassment: Most conduct that is covered by Title IX would also be covered by SB23-296 (AC-R-1). Such conduct would be any incident with a protected class of sex, sexual orientation, gender identity, or gender expression against a student. If this occurs, SB23-296 specifically states that the district must "concurrently evaluate the complaint pursuant to federal law and the procedures and policies required by [SB23-296]".

Because federal law prevails over state law, we recommend districts evaluate any Title IX complaints via the Title IX policy (AC-R-3), but still provide the additional protections offered by SB23-296 that are not in federal law. Additionally, a report must include an explanation of whether Title IX was violated and whether SB23-296 was violated—districts may choose to include both explanations in one combined report or two separate reports. Additional protections required by 296 but not CASB's sample Title IX policy include the following:

- Written updates to all parties and parents/guardians every 15 business days;
- Excused absences for therapy, medical, legal, or victim services appointments related to the harassment or discrimination;
- Prohibitions on certain disciplinary responses (e.g. self-defense, drug/alcohol use, truancy, etc.); and
- A requirement to provide for concurrent notification to the parties of the outcome of the investigation and any findings.

Informal resolution. We have included an informal resolution process for both regulations, with the caveat that it should only be used if both parties are same age… i.e. student on student, staff on staff. For students, an informal resolution process should allow for more flexibility, so that approaches can be tailored based on the type of conduct and impact on the parties.

Formal resolution. We have included a formal resolution process for both regulations, but the steps the compliance officer takes to complete the investigation will vary. However, our policy provides a broad overview of the types of evidence that might be considered.

AC-R-1: Students

Stages of the Investigation. SB23-296 requires a district to provide regular written updates about the status of the investigation to both parties and their parents/legal guardians at the end of "each stage of the investigation," but at least every fifteen school days. There are two aspects of this that were unclear to CASB while drafting: (1) what a stage is, and (2) when the written updates start. We drafted AC-R-1 with numbers to indicate clear stages, so that it will be easier to know when it is appropriate to send updates. However, written updates most likely wouldn't be sent until the compliance officer has made the determination that the investigation will continue, starting in step 3. Our recommended policy changes do not specify exactly when written updates would start, in order to provide flexibility for districts. We would recommend sending written updates as soon as possible after the compliance officer reviews the complaint and begins meeting with the students.

Formal reports vs. Complaints: SB23-296 had inconsistent usage of the term "report" and the term "complaint." The legislative declaration refers to complaints. However, the bill language says a school shall accept "formal reports," later calls them "reports," and in another location, states a school should maintain records of "supportive measures taken in response to a report ***or*** formal complaint."

We considered whether to differentiate between a report and a formal complaint. This would likely mean that a report is an informal verbal or written description of conduct, perhaps informally given to a teacher. A formal complaint would be a formal request for the district to

start an investigation. We determined making this distinction would be too complicated. Additionally, since 296's language seems to require an investigation process upon the more "informal" report, we did not want a student to share information and then inadvertently trigger an investigation process as well as potential district responsibility if the district is not adequately informed of the report. The bill does not specifically state how these terms should be defined. Additionally, it doesn't require any particular reporting method – other than requiring that students be allowed to submit both orally and in writing.

Therefore, we believe schools have discretion in terms of the definition of complaint and report, and discretion to decide how conduct is best reported. We tried to keep the regulation as simple as possible while remaining consistent with SB23-296.

Definition of complaint and report. The sample policy calls information that would trigger the SB23-296 investigation process "complaints" as this stays consistent with the terminology of the investigation process in other federal laws such as Title IX. We do not define report or offer an informal reporting option. If informal reports can trigger the investigation, we believe the district would have less control over the process. This is why we required all complaints to go to the compliance officer, but made it easier to report (this is also consistent with 296, which allows reports to be made in person and orally). Using an online complaint form is simple and is our recommendation, although districts must ensure that it is accessible or that students with disabilities can access it. Any student should also be able to talk to the compliance officer to file a complaint.

How to make complaints. In our recommended policies, complaints are easily made, but must be made to compliance officer. A student can certainly talk to staff about incidents, and if a staff member believes the described incident is possibly discrimination/harassment, the staff member would need to give this information to the compliance officer. If the compliance officer believes it is possibly prohibited conduct, the investigation would continue and they would meet with the student. Ultimately, the investigation would not start without the information reaches the compliance officer.

A school does not need to require all reports to be sent to a compliance officer. We believe reporting to the compliance officer for a basic evaluation will yield the most consistent and appropriate results, and therefore, is the best option. A school may select another option for reporting, such as allowing reports to be made to teachers or other school staff.

Within policies, we included a space for the district to input their compliance officer's name, as well as an alternate's name. The alternate is necessary in case the compliance officer is the subject of the complaint. Once the compliance officer receives the complaint, they may designate another employee to fulfill their responsibilities under the policy if needed. This could be due to a conflict of interest, insufficient capacity, or any number of reasons. We left this

open to the district and wanted to make sure the language provided the compliance officer a great deal of discretion to designate their responsibilities if needed.

Review of Complaint. The evaluation stage is very important. We decided the compliance officer should evaluate the complaint, rather than a school principal. This will ensure consistent enforcement of the rules, rather than disparate treatment by school. Additionally, we believe it is possible that many more complaints could be filed than previous law because the bill makes it easier for students to make complaints and also the bill requires more education about harassment and discrimination. Because of the possibility of more complaints, it is important for the compliance officer to carefully review the complaint to make sure it actually alleges a potential violation of policy.

To make this determination, compliance officers should ensure: (1) Complainant is a member of a protected class under state or federal law; (2) Alleged violation is NOT sex-based harassment under Title IX (sex-based harassment would need to follow AC-R-3); (3) The alleged violation, if proven true, could constitute harassment/discrimination. In the third inquiry, it is best to err on the side of caution – but also consider whether certain issues might be more appropriate to resolve at the school level. The compliance officer should not be making a detailed determination regarding whether discrimination or harassment ***actually*** occurred, as this would not be fair to the respondent. This is a basic inquiry to determine how best to handle the complaint and ensure the alleged conduct could possibly constitute a violation. If behavior would constitute harassment/discrimination, but it is not based on a protected class, it would likely be bullying. In which case, should be forwarded to the school-level principal or the appropriate administrator.

Final notification. SB23-296 requires a final notification after the investigation concludes. The bill does not technically require a final report to be sent to the students, just the final outcome. Our policy does not provide students with the final report, because we believed this decision was best left up to the district. Both a report and a description of the final outcome could be provided if desired.

Excused Absences. SB23-296 requires excused absences for any therapy, medical, legal, or victim's services for a student who has experienced harassment or discrimination. Excused absences are not only for students who have filed a report. We believe SB23-296 requires a school to grant excused absences for students who have experienced harassment or discrimination, regardless of whether they have filed a report, so districts should keep this in mind when considering requests for excused absences. We also included a right of an excused absence to both parties – the complainant and respondent – because we believe both parties could have the need for such appointments. However, SB23-296 does not expressly require a district to provide excused absences for students who haven't experienced harassment or discrimination, such as a respondent.

Accommodations and supportive measures. Accommodations and supportive measures are also only required for students who experience harassment or discrimination, but we chose to extend supportive measures to both parties. We determined this was equitable and in line with the bill's intent, particularly if there is a situation where a student does not believe they engaged in prohibited conduct. Of course, accommodations and supportive measures will depend on the situation and districts have discretion to make the appropriate determinations.

AC-R-2: Applicants for Employment, Employees, and Members of the Public

Unlike the student focused bill, there were already substantial protections for employees of Colorado school districts. These can be found under discriminatory or unfair employment practices in C.R.S. 24-34-402.

Optional anti-harassment language. SB23-172 has an affirmative defense available for districts, described more in this resource. We included optional language in AC-R-2 that states that the regulation, along with other steps taken by the district, is meant to comply with SB23-172 and serve as an affirmative defense in certain situations. We recommend including this language, with the caveat that if it is included districts should closely review SB23-172, consult with counsel, and direct their superintendent to develop an anti-harassment program if it does not already exist.

Compliance Officer. We envision that the compliance officer will investigate most, if not all, complaints of discrimination against staff. It may not be appropriate to delegate the matter to the building level because the case could be more severe. However, we still gave the opportunity to the compliance officer to delegate tasks to others if needed, based on capacity or other reasons.

Repository. SB23-172 requires that districts keep a repository of all written or oral complaints of discriminatory or unfair employment practices, including sexual harassment complaints. C.R.S. 24-34-408. The following information must be kept: date of the complainant, identity of the complaining party (if complaint was not made anonymously), the identity of the perpetrator, and the substance of the complaint. Additionally, districts must retain any related personnel or employment records for at least five years. This includes requests for accommodation, complaints, application forms submitted by applicants for employment, other records relating to hiring, promotion, demotion, transfer, layoff, termination, rates of pay or other terms of compensation, and selection for training or apprenticeship, and records of training provided to or facilitated for employees. We did not include this in the policy language, and opted to include an informational note. However, the district could include these requirements in policy if appropriate.

Timeline: SB23-172 does not have a timeline for investigations. We determined it would be appropriate to copy the timelines in SB23-296 for clarity and ease. In the regulation, we offered suggested timelines, but a district can certainly deviate from these timelines.

Nondisclosure agreement. SB23-172 also had a prohibition on nondisclosure agreements. As most districts do not utilize NDAs, we did not include this prohibition, although it could be added. If your district uses NDAs, review SB23-172 and ensure you are not violating its provisions.

AC-R-3: Title IX

Single Investigator Model. The amended 2024 Title IX regulations allow for increased flexibility and informality in handling sex discrimination complaints in schools. Previously, schools were required to utilize a Title IX Coordinator, investigator, and decision-maker, but now schools now have the option to utilize a single-investigator model. CASB recommends using a Title IX Coordinator to complete the investigation, but utilize a decision-maker to make the final decision regarding whether discrimination or harassment occurred. This is for two reasons: (1) to ensure that the process is as reliable as possible by including a second individual to review the investigator's work, and (2) to promote consistency between policies AC-R-1 and AC-R-2, in which the superintendent will review the report of the compliance officer. However, smaller districts may wish to utilize only one person for the entire investigation, and this is permitted in the regulations.

Informal Resolution and Appeal. Schools are not required to offer informal resolution or an appeal process. Therefore, we have included optional language to add if a school wishes to include these processes.

Notices

Reminder of required notice. With regard to school district's policy, certain parameters must be followed pursuant to federal regulation. We recently received information from federal auditors regarding the specific information that should be in policies. Policies throughout a district's policy bank must include the following:

- Notification of students, parents/guardians, employees, applicants for admission and employment, all unions or professional organizations holding collective bargaining or

professional agreements, and the general public that it will not discriminate in its programs or activities.[6]

- Explicitly state race, color, national origin, gender, and disability as the basis of nondiscrimination.[7]
- Include the name or title, office address, and telephone number of the Title IX, Section 504, and Title II coordinator(s).[8]
- Include a reference to grievance procedures.[9]
- Publish the information on a continuing basis in the following required and optional publications.

This resource is for informational purposes only and does not constitute legal advice. Specific questions should be referred to the school district's legal counsel.

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[6] Section 504 – 34 CFR 104.8]
[7] Title VI (34 C.F.R. § 100.3(a)); Title IX (34 C.F.R. § 106.8(a)), Section 504 (34 C.F.R. § 104.8(a)) and Title II (28 C.F.R. § 35.106).
[8] Title IX (34 C.F.R. § 106.8(a)); Section 504 (34 C.F.R. § 104.8(a)) and Title II (28 C.F.R. § 35.107(a).
[9] Title IX (34 C.F.R. § 106.8(b))