

## Delaware Area Career Center

### PROCEDURE FOR HANDLING COMPLAINTS AND GRIEVANCES FOR FACULTY AND STAFF

**As Adult Education falls under the jurisdiction of the DACC Board of Education, the following Board approved administrative guidelines will be followed if the employee does not achieve a satisfactory result by addressing their concern with their immediate supervisor:**

#### **STAFF CONCERNS**

If one or more staff members have a concern about the behavior of a fellow professional or about some aspect of the operation of the school that is not functioning as it should, or in accordance with an agreed-upon plan, or because an informal commitment by the administration is not being fulfilled, the staff member(s) should make arrangements to discuss the matter with the Adult Operations Director as soon as feasible.

If the matter is not or cannot be rectified satisfactorily by the Adult Operations Director, the staff member(s) may request a meeting with the Superintendent. The request should be in writing and include:

- A. The specific nature of the problem and a brief statement of the facts giving rise to it;
- B. A brief statement explaining how the staff member(s) are being affected by it; and
- C. The action which the staff member(s) wishes to be taken and how such action would rectify the problem.

The Superintendent, after reviewing the request, will either meet with the staff member(s) or provide a written decision explaining the school's position on the matter.

The Superintendent's decision will be final and may not be appealed to the Board.

#### **NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY**

The Board of Education does not discriminate on the basis of race, color, national origin, sex (including sexual orientation and transgender identity), disability, age, religion, military status, ancestry, genetic information (collectively, "Protected Classes"), or any other legally protected category, in its programs and activities, including employment opportunities.

#### **District Compliance Officer**

The Board designates the following individual to serve as the District's "Compliance Officer" (also known as "Civil Rights Coordinator") (hereinafter referred to as the "CO") are specified by campus:

##### **South (Main) Campus**

Director of Secondary Operations  
4565 Columbus Pike  
Delaware, OH 43015

##### **North Campus**

Pupil Services Supervisor  
1610 State Route 521  
Delaware, OH 43015

The title and contact information of this individual will be published annually on the School District's web site.

The CO is responsible for coordinating the District's efforts to comply with applicable Federal and State laws and regulations, including the District's duty to address in a prompt and equitable manner any inquiries or complaints regarding discrimination, retaliation or denial of equal access. The CO shall also verify that proper notice of nondiscrimination for Title II of the Americans with Disabilities Act (as amended), Title VI and Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendment Act of 1972, Section 504 of the Rehabilitation Act of 1973 (as amended), and the Age Discrimination in Employment Act of 1975 is provided to staff members and the general public. Any sections of the District's collectively-bargained, negotiated agreements dealing with hiring, promotion, and tenure need to contain a statement of nondiscrimination similar to that in the Board's statement above. In addition, any

gender-specific terms should be eliminated from such contracts. A copy of each of the Acts and regulations on which this notice is based may be found in the CO's office.

### **Reports and Complaints of Unlawful Discrimination and Retaliation**

Employees are encouraged to promptly report incidents of unlawful discrimination and/or retaliation to an administrator, supervisor, or other District-level official so that the Board may address the conduct. Any administrator, supervisor, or other District-level employee or official who receives such a complaint shall file it with the CO within two (2) school days.

Employees who believe they have been unlawfully discriminated/retaliated against are entitled to utilize the complaint process set forth below. Initiating a complaint, whether formally or informally, will not adversely affect the complaining individual's employment. While there are no time limits for initiating complaints under this policy, individuals should make every effort to file a complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available.

The CO will be available during regular school/work hours to discuss concerns related to unlawful discrimination/retaliation. CO shall accept complaints of unlawful discrimination/retaliation directly from any member of the School District community or a visitor to the District, or receive complaints that are initially filed with a school building administrator. Upon receipt of a complaint, either directly or through a school building administrator, a CO will begin either an informal or formal process (depending on the request of the person alleging the discrimination/retaliation or the nature of the alleged discrimination/retaliation), or the CO will designate a specific individual to conduct such a process. The CO will provide a copy of this policy to any person who files a complaint. In the case of a formal complaint, the CO will prepare recommendations for the Superintendent or oversee the preparation of such recommendations by a designee. All members of the School District community must report incidents of discrimination/retaliation that are reported to them to the CO within two (2) business days of learning of the incident/conduct.

Any Board employee who directly observes unlawful discrimination/retaliation is obligated, in accordance with this policy, to report such observations to the CO within two (2) business days. Additionally, any Board employee who observes an act of unlawful discrimination/retaliation is expected to intervene to stop the misconduct, unless circumstances make such an intervention dangerous, in which case the staff member should immediately notify other Board employees and/or local law enforcement officials, as necessary, to stop the misconduct. Thereafter, the CO or designee must contact the employee within two (2) business days to advise him/her of the Board's intent to investigate the wrongdoing.

### **Investigation and Complaint Procedure**

Any employee who believes that s/he has been subjected to unlawful discrimination or retaliation may seek resolution of his/her complaint through the procedures described below. The formal complaint procedures involve an investigation of the individual's claims and a process for rendering a decision regarding whether the charges are substantiated.

Due to the sensitivity surrounding complaints of unlawful discrimination or retaliation, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs. Once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within fifteen (15) business days of the complaint being received).

The procedures set forth below are not intended to interfere with the rights of any individual to pursue a complaint of unlawful discrimination or retaliation with the United States Department of Education Office for Civil Rights, the Ohio Civil Rights Commission ("OCRC") or Equal Employment Opportunity Commission ("EEOC").

### **Informal Complaint Procedure**

The goal of the informal complaint procedure is to stop quickly inappropriate behavior and facilitate resolution through an informal means, if possible. The informal complaint procedure is provided as a less formal option for an employee who believes s/he has been unlawfully discriminated or retaliated against. This informal procedure is not required as a precursor to the filing of a formal complaint. The informal

process is only available in those circumstances where the parties (the alleged target of the discrimination/retaliation and individual(s) alleged to have engaged in the discrimination) agree to participate in it.

Employees who believe that they have been unlawfully discriminated/retaliated against may proceed immediately to the formal complaint process and individuals who seek resolution through the informal procedure may request that the informal process be terminated at any time to move to the formal complaint process.

All complaints involving a District employee or any other adult member of the School District community against a student will be formally investigated.

As an initial course of action, if an individual feels that s/he is being unlawfully discriminated/retaliated against and s/he is able and feels safe doing so, the individual should tell or otherwise inform the person who engaged in the allegedly discriminatory/retaliatory conduct that it is inappropriate and must stop. The complaining individual should address the alleged misconduct as soon after it occurs as possible. The CO is available to support and counsel individuals when taking this initial step or to intervene on behalf of the individual if requested to do so. An individual who is uncomfortable or unwilling to inform the person who allegedly engaged in the unlawful conduct of his/her concerns is not prohibited from otherwise filing an informal or a formal complaint. In addition, with regard to certain types of unlawful discrimination, such as sexual discrimination, the CO may advise against the use of the informal complaint process.

An individual who believes s/he has been unlawfully discriminated/retaliated against may make an informal complaint, either orally or in writing: (1) to a building administrator; (2) directly to the CO; and/or (3) to the Superintendent or other District-level employee.

All informal complaints must be reported to the CO who will either facilitate an informal resolution as described below, or appoint another individual to facilitate an informal resolution.

The School District's informal complaint procedure is designed to provide employees who believe they are being unlawfully discriminated/retaliated against with a range of options aimed at bringing about a prompt resolution of their concerns. Depending upon the nature of the complaint and the wishes of the individual claiming unlawful discrimination/retaliation, informal resolution may involve, but not be limited to, one or more of the following:

- A. Advising the individual about how to communicate his/her concerns to the person who allegedly engaged in the discriminatory/retaliatory behavior.
- B. Distributing a copy of the Non-Discrimination Policy as a reminder to the individuals in the school building or office where the individual whose behavior is being questioned works.
- C. If both parties agree, the CO may arrange and facilitate a meeting between the individual claiming discrimination/retaliation and the individual accused of engaging in the misconduct to work out a mutual resolution.

While there are no set time limits within which an informal complaint must be resolved, the CO or designee will exercise his/her authority to attempt to resolve all informal complaints within fifteen (15) business days of receiving the informal complaint. Parties who are dissatisfied with the results of the informal complaint process may proceed to file a formal complaint. And, as stated above, parties may request that the informal process be terminated at any time to move to the formal complaint process.

All materials generated as part of the informal complaint process will be retained by the CO in accordance with the Board's records retention policy.

### **Formal Complaint Procedure**

If a complaint is not resolved through the informal complaint process, if one of the parties requested that the informal complaint process be terminated to move to the formal complaint process, or if the individual elects to file a formal complaint initially, the formal complaint process shall be implemented.

An individual who believes s/he has been subjected to unlawful discrimination/retaliation (hereinafter referred to as the "Complainant"), may file a formal complaint, either orally or in writing, with a Director, the CO, Superintendent, or other District-level employee. Due to the sensitivity surrounding complaints of unlawful discrimination and retaliation, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs. If a Complainant informs a Director, Superintendent, or other District-level employee, either orally or in writing, about any complaint of discrimination/retaliation, that employee must report such information to the CO within two (2) business days.

Throughout the course of the process, the CO should keep the parties informed of the status of the investigation and the decision-making process.

All formal complaints must include the following information to the extent it is available: the identity of the individual believed to have engaged in, or be engaging in, the discriminatory/retaliatory conduct; a detailed description of the facts upon which the complaint is based; a list of potential witnesses; and the resolution sought by the Complainant.

If the Complainant is unwilling or unable to provide a written statement including the information set forth above, the CO shall ask for such details in an oral interview. Thereafter, the CO will prepare a written summary of the oral interview, and the Complainant will be asked to verify the accuracy of the reported charge by signing the document.

Upon receiving a formal complaint, the CO will consider whether any action should be taken in the investigatory phase to protect the Complainant from further discrimination or retaliation, including, but not limited to, a change of work assignment or schedule for the Complainant and/or the person who allegedly engaged in the misconduct. In making such a determination, the CO should consult the Complainant to assess his/her agreement to the proposed action. If the Complainant is unwilling to consent to the proposed change, the CO may still take whatever actions s/he deems appropriate in consultation with the Superintendent.

Within two (2) business days of receiving the complaint, the CO or designee will initiate a formal investigation to determine whether the Complainant has been subjected to unlawful discrimination/retaliation.

Simultaneously, the CO will inform the individual alleged to have engaged in the discriminatory or retaliatory conduct (hereinafter referred to as the "Respondent"), that a complaint has been received. The Respondent will be informed about the nature of the allegations and provided with a copy of any relevant policies and/or administrative guidelines, including the Non-Discrimination Policy. The Respondent must also be informed of the opportunity to submit a written response to the complaint within five (5) business days.

Although certain cases may require additional time, the CO or a designee will attempt to complete an investigation into the allegations of discrimination/retaliation within fifteen (15) business days of receiving the formal complaint. The investigation will include:

- A. Interviews with the Complainant;
- B. Interviews with the Respondent;
- C. Interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations; and
- D. Consideration of any documentation or other information presented by the Complainant, Respondent, or any other witness that is reasonably believed to be relevant to the allegations.

At the conclusion of the investigation, the CO or the designee shall prepare and deliver a written report to the Superintendent that summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful discrimination/retaliation as provided in Board policy and State and Federal law as to whether the Complainant has been subjected to unlawful discrimination/retaliation. The CO's recommendations must be based upon the totality of the

circumstances. In determining if discrimination or retaliation occurred, a preponderance of evidence standard will be used.

Absent extenuating circumstances, within five (5) business days of receiving the report of the CO or the designee, the Superintendent must either issue a final decision regarding whether the charges have been substantiated or request further investigation. A copy of the Superintendent's final decision will be delivered to both the Complainant and the Respondent.

If the Superintendent requests additional investigation, the Superintendent must specify the additional information that is to be gathered, and such additional investigation must be completed within five (5) business days. At the conclusion of the additional investigation, the Superintendent must issue a final written decision as described above.

If the Superintendent determines the Complainant was subjected to unlawful discrimination/retaliation, she/he must identify what corrective action will be taken to stop, remedy, and prevent the recurrence of the discrimination/retaliation. The corrective action should be reasonable, timely, age-appropriate and effective, and tailored to the specific situation.

The decision of the Superintendent shall be final.

The Board reserves the right to investigate and resolve a complaint or report of unlawful discrimination/retaliation regardless of whether the employee alleging the unlawful discrimination/retaliation pursues the complaint. The Board also reserves the right to have the formal complaint investigation conducted by an external person in accordance with this policy or in such other manner as deemed appropriate by the Board or its designee.

The Complainant may be represented, at his/her own cost, at any of the above-described meetings/hearings.

The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the Office for Civil Rights or the filing of a court case. Use of this internal complaint procedure is not a prerequisite to the pursuit of other remedies.

### **Privacy/Confidentiality**

The School District will employ all reasonable efforts to protect the rights of the Complainant, the Respondent(s), and the witnesses as much as possible, consistent with the Board's legal obligations to investigate, to take appropriate action, and to conform to any discovery or disclosure obligations. All records generated under the terms of this policy shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed. All Complainants proceeding through the formal investigation process will be advised that their identities may be disclosed to the Respondent(s).

During the course of a formal investigation, the CO or designee will instruct each person who is interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of an investigation is expected not to disclose to third parties any information that s/he learns and/or provides during the course of the investigation.

All public records created as a part of an investigation of a complaint of discrimination/retaliation will be maintained by the CO in accordance with the Board's records retention policy.

### **Sanctions and Monitoring**

The Board shall vigorously enforce its prohibitions against unlawful discrimination by taking appropriate action reasonably calculated to stop and prevent further misconduct. While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee. All disciplinary action will be taken in accordance with applicable State law and the terms of the relevant collective bargaining agreement(s). When imposing discipline, the Superintendent shall

consider the totality of the circumstances involved in the matter. In those cases where unlawful discrimination/retaliation is not substantiated, the Board may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies, consistent with the terms of the relevant collective bargaining agreement(s).

Where the Board becomes aware that a prior remedial action has been taken against an employee, all subsequent sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to end such conduct, prevent its recurrence, and remedy its effect.

### **Retaliation**

Retaliation against a person who makes a report or files a complaint alleging unlawful discrimination/retaliation, or participates as a witness in an investigation is prohibited. Specifically, the Board will not retaliate against, coerce, intimidate, threaten or interfere with any individual because the person opposed any act or practice made unlawful by any Federal or State civil rights law, or because that individual made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under those laws, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws.

### **Education and Training**

In support of this policy, the Board promotes preventative educational measures to create greater awareness of unlawful discriminatory practices. The Superintendent or designee shall provide appropriate information to all members of the School District community related to the implementation of this policy and shall provide training for District students and staff where appropriate. All training, as well as all information provided regarding the Board's policy and discrimination in general, will be age and content appropriate.

## **COMPLAINT PROCEDURES RELATED TO DISABILITY DISCRIMINATION IN EMPLOYMENT**

If a person believes that s/he has been discriminated against on the basis of his/her disability, the person may utilize the following complaint procedures as a means of reaching, at the lowest possible administrative level, a prompt and equitable resolution of the matter.

The following person is designated as the District's Section 504/ADA Compliance Officer ("District's Compliance Officer"):

#### **South Campus**

Director of Secondary Operation  
4565 Columbus Pike  
Delaware, OH 43015  
740-548-0708

#### **North Campus**

Pupil Services Supervisor  
1610 State Route 521  
Delaware, OH 43015  
740-363-1993

AOD serves as Building Section 504/ADA Compliance Officer(s) ("Building Compliance Officers").

Internal complaints must be put in writing and must identify the specific circumstances or areas of dispute that have given rise to the complaint, and offer possible solutions to the dispute. The complaint must be filed in a timely manner with either the District Compliance Officer or the Building Compliance Officers. The District's Compliance Officer is available to assist individuals in filing a complaint.

### **Internal Complaint Procedure**

A person who has a complaint about District facilities or services may register such complaint with the Building Compliance Officer and/or District Compliance Officer. Such complaints should be filed in writing within thirty (30) calendar days of the circumstances or event giving rise to the complaint. Use of the internal complaint procedure is not a prerequisite to the pursuit of other remedies, including the filing of a complaint with the U.S. Department of Education's Office for Civil Rights.

- A. The written complaint must contain the following information:
  1. Name(s) of person(s) filing complaint.
  2. Whether the person(s) represents an individual or group.
  3. Whether the person(s) making the complaint has discussed the problem with the Building Compliance Officer and/or the District Compliance Officer.

4. A written summary of the complaint and a proposed solution.
- B. The Building Compliance Officer or the District Compliance Officer will conduct an impartial investigation and will respond to the complaint within five (5) business days. This complaint procedure contemplates informal, but thorough investigations, affording all interested persons and their representatives, if any, an opportunity to present witnesses and other evidence relevant to the complaint.
- C. If a satisfactory response is not received within five (5) business days, the person should forward a copy of the complaint to the Superintendent, who will respond within ten (10) business days.
- D. If a satisfactory response is not received within ten (10) business days, the person may forward a copy of the complaint to the Board of Education. The Board will consider the complaint and respond within forty (40) calendar days.

### **OCR Complaint**

At any time, if a member of the public believes that s/he has been subjected to discrimination based upon his/her disability in violation of Section 504 or the Americans with Disabilities Act, as amended ("ADA"), the individual may file a complaint with the U.S. Department of Education's Office for Civil Rights ("OCR").

The OCR can be reached at:

U.S. Department of Education  
Office for Civil Rights  
Cleveland Office  
1350 Euclid Avenue, Suite 325  
Cleveland, Ohio 44115  
(216) 522-4970  
FAX: (216) 522-2573  
TDD: (800) 877-8339  
E-mail: [OCR.Cleveland@ed.gov](mailto:OCR.Cleveland@ed.gov)  
Web: <http://www.ed.gov/ocr>

### **Prohibition Against Retaliation**

The Board will not discriminate against, coerce, intimidate, threaten or interfere with any individual because the person opposed any act or practice made unlawful by Section 504 or the ADAAA, or because that individual made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under Section 504 or the ADAAA, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by Section 504 or the ADAAA.