

**EMPLOYEE DISCRIMINATION AND HARASSMENT
POLICY STATEMENT**

Nebo School District is committed to providing an environment free from illegal harassment and other forms of discrimination based upon: (a) race, color, national origin, sex, religion, or pregnancy, as such protected classes are defined in the Civil Rights Act of 1964 (Civil Rights Act) and the Utah Anti-Discrimination Act (UADA); (b) disabilities, as such protected class is defined in the Americans with Disabilities Act of 1990 (ADA) and the UADA; (c) age, as such protected class is defined in the Age Discrimination in Employment Act of 1967 (ADEA) and the UADA; (d) status as a veteran of the Vietnam era, as such protected class is defined in the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA); and (e) any other legally protected class(es) as defined by applicable state and federal law. It is the belief of the Nebo School District that an environment free of discrimination and harassment is a necessary part of a healthy learning and working atmosphere.

Nebo School District is committed to eliminating illegal discrimination through education and administrative support.

POLICY

- A. No employee of the Nebo School District may illegally discriminate on the basis of race, color, national origin, sex, religion, pregnancy, disability, age, status as a veteran of the Vietnam era, or any other legally protected class(es) as defined by applicable state and federal law when assigning work or education related benefits and burdens. The Equal Employment Opportunity Commission (EEOC) has identified tangible job actions to include, but not limited to:
- hiring and firing
 - promotion and failure to promote
 - disciplinary action including suspension and demotion
 - undesirable reassignment
 - a decision causing a significant change in benefits.
 - compensation decisions, and
 - work assignments
- B. No employee of the Nebo School District may engage in illegally harassing conduct which creates a hostile work or learning environment for other employees or students of the School District.
- C. Nebo School District employees with supervisory responsibility who know or have reason to know this policy is being violated must take action to correct the situation. This action is described in the Complaint Review Procedure herein.
- D. It is the policy of the Nebo School District to provide fair, expeditious and uniform procedures for investigation and resolution of claims of illegal harassment or

discrimination.

REFERENCES

Articles 6, 18 and 19 of the Certified Negotiated Agreement, Article 1, Sections 2, 3, 21, 26, 27, and 28 of the Classified Negotiated Agreement

DEFINITIONS

- A. **Clearly Offensive Conduct:** That conduct, be it verbal or nonverbal, which when perceived in its overall context, would be taken by a reasonable person, similarly situated, to be strongly objectionable and distasteful.
- B. **Complainant:** A person who files a written or oral complaint about illegal harassment.
- C. **Complaint Officer:** Director of Human Resources
- D. **Confront:** To have a face to face discussion and/or contact regarding the alleged harassment.
- E. **Demeaning or Derisive Behavior:** Behavior which a reasonable person, in the overall context, would be perceived as substantially lowering the status, dignity or standing of another individual, or which substantially insults, belittles or shows contempt for another individual.
- F. **Disability:** An individual's physical or mental impairment that substantially limits one or more major life activities, a record of such an impairment, or being regarded as having such an impairment.
- G. **Discrimination:** Conduct, including words or gestures and other actions, which illegally disadvantages persons based upon their immutable characteristics such as race, color, national origin, sex, religion, pregnancy, disability, age, status as a veteran of the Vietnam era, or any other legally protected class(es) as defined by applicable state and federal law.
- H. **Harassment:** Unwelcome conduct, as perceived by a reasonable person, that is substantially demeaning or derisive or occurs substantially because of the race, color, national origin, sex, religion, pregnancy, disability, age, status as a veteran of the Vietnam era, or any other legally protected class(es) as defined by applicable state and federal law and which creates a hostile work or learning environment. Harassment shall include one or more of the three levels described below; If conduct is "clearly offensive" only one incident may be necessary to establish harassment.
 - 1. **Level One: Generalized Harassment**

Includes intentional behavior directed at an entire group which is based on demeaning or derisive stereotypes, and is so severe or pervasive that it

creates a hostile work or learning environment.

Examples include comments or jokes, physical gestures or visual displays such as posters, etc.

2. Level Two: Individually Targeted Harassment

Includes intentional verbal, physical, or visual behavior which is targeted at an individual or particular members of a group that is so severe or pervasive that it adversely affects the work or learning environment.

Examples include negative or offensive comments, jokes, suggestions or gestures directed to an individual's or group's race, ethnicity or national origin.

3. Level Three: Criminal Harassment

Harassing behavior which violates state or federal criminal statutes.

Examples include criminal harassment, criminal assault, sexual assault, rape, criminal mischief, stalking, arson and trespass.

I. Respondent: A person named in a discrimination complaint as having engaged or being responsible for a discriminatory act or omission.

J. Retaliation: An intentional adverse employment or other action taken by an employer against a person because that person has asserted, or has assisted another person to assert, a discrimination complaint in either a formal or informal manner with the school district, or with any state or federal agency, or because that person has testified, assisted or participated in any manner in an investigation, proceeding or hearing related to a discrimination complaint.

K. Sexual Harassment: Any unwelcome treatment, as perceived by a reasonable person, that is sexual in nature or occurs substantially because of the gender of the victim which is so severe and pervasive that it creates a hostile work or learning environment. Sexual harassment includes, but is not limited to:

1. Hostile Work or Learning Environment. The three levels of hostile work or learning environment are the same as those listed for other workplace harassment, e.g., generalized harassment, individually targeted harassment, and criminal harassment.

2. Harassment that culminates in a tangible job action which alters the conditions of employment (previously called quid pro quo). An example would be when a supervisor creates the reasonable perception that granting or withholding tangible job benefits shall be based on the granting of sexual favors.

MANAGEMENT PROVISIONS

1. Any employee or student of Nebo School District who is or has been subjected to discrimination or harassment in violation of this policy may use the complaint procedures described herein.
2. Any district employee who knows or has reason to know of violations of this policy is encouraged to report such conduct to an administrator or complaint officer as described in the Complaint and Investigative Procedure.
3. Questions regarding discrimination or harassment shall be directed to the Human Resources Director.
4. The initial notice or inquiry may be submitted either orally or in writing. Complainants are encouraged to submit a written, rather than oral statement. If the complainant is not willing to file a written complaint, the District shall proceed with an investigation if it believes it is in the best interest of all parties, including the District.
5. Complaints should be made as soon as possible after the event(s) which give rise to the complaint.

COMPLAINT AND INVESTIGATIVE PROCEDURES

1. Those who believe they are victims of harassment or discrimination, or are witness to such acts, may utilize one or more of the following options.
 - a. Seek advice from a designated complaint officer, or employee representative or (others).
 - b. Seek to resolve issue directly with the accused.
 - c. Seek to resolve issues through supervisory personnel.
 - d. Register a formal complaint with designated complaint officer (Director of Human Resources) who will initiate an investigation.
 - e. File a complaint with the Utah Anti-Discrimination and Labor Division within 180 days of cause of action, or within 300 days of cause of action with EEOC.
2. Although any investigation will give deference to a complainant's preferences, any investigation that ensues need not be based on the alleged victim's choice of action.
3. If an investigation reveals evidence of criminal conduct, the matter will be referred to local law enforcement regardless of the complainant's choice of action. The District will continue with its own investigation.
4. All investigations will be treated with discretion to protect the privacy of those involved. All efforts will be made to treat the information as confidential, however absolute confidentiality of all information obtained through an investigation cannot be guaranteed.
5. Complainants may be encouraged, but shall not be required to confront respondents.

6. The accused may not contact the alleged victim during an investigation without intervention by the District and with the permission of the complainant.

RETALIATION

Retaliation against any person who opposes a practice which is forbidden by this policy, or has filed a complaint, testified, assisted or participated in any manner in an investigative proceeding or hearing under this policy is prohibited. Individuals found guilty of retaliation may face disciplinary action, up to and including termination.

TRAINING

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

RECORDS

Records of all discrimination or harassment complaints shall be maintained by the Human Resources Director as required by law and regulation. The records will be kept in a separate and confidential file as required by GRAMA. Information gathered, developed and documented in the investigation will be regarded as a "protected" record.

COMPLAINT PROCEDURE

1. Any person who believes that he/she is the victim of discrimination, harassment or who has knowledge of such conduct should report that conduct directly to the Director of Human Resources or to an appropriate administrator. Reports of policy violations may be oral or in writing. If a complainant is unwilling to file a written complaint, the Director of Human Resources shall proceed with the investigation if deemed to be in the best interest of all parties and the District. In all circumstances the person receiving the complaint will use the District's best efforts to resolve the allegations.
 - a. If a report is not in writing, an attempt should be made to acquire the complainant's signature on the report form. If the alleged victim is unwilling to sign a report form attesting to the truth of the allegations therein, he or she should be informed that their refusal may prevent further processing of the complaint.
 - b. The report form shall include identities of those claimed to be involved, a description of the behaviors complained of, the harm caused by the conduct, and the resolution sought by the complaining party.
2. If the initial report is directed to the respondent's supervisor, the supervisor shall complete the report form after interviewing the complainant. The supervisor may

either refer the complainant to the Director of Human Resources or attempt to resolve the complaint directly with the parties.

If the dispute is resolved to the satisfaction of the parties, the agreement reached shall be documented in writing with all parties signing and receiving copies. The agreement will then be sent to the Human Resources Director for approval. The agreement will be reviewed by the Human Resources Director after 90 days to verify the terms have been complied with by all parties. If terms have been met, the complaint will be closed. If terms have not been met, an investigation will proceed.

If the Director of Human Resources and legal counsel as appropriate, determines the agreement was inadequate, attempts will be made to assist the parties and supervisors to reach an adequate agreement. If resolution remains unsuccessful, the complaint shall be referred for investigation.

3. Any reports received by persons other than supervisors with line authority over the complainant or respondent must be referred to the Director of Human Resources for investigation.
4. The Director of Human Resources shall conduct an intake on all initial or unresolved complaints brought to their attention. If attempts to informally assist the parties to reach a mutual agreement fail, the complaint shall be formally investigated.

INVESTIGATION

1. When conducting investigations, the Director of Human Resources shall disclose his/her role as a neutral investigator rather than an advocate for any party. The extent of the investigation will be determined, among other factors, by the nature and severity of the charges, but at a minimum will include interviews with all complainants and respondents.
2. The Director of Human Resources shall promptly inform responding parties of the existence and nature of the charges filed against them. This can be done by providing a copy of the written complaint, the report form, or a written summary of the complaint. The Director of Human Resources shall also inform the responding parties of their rights and responsibilities, in writing, during the investigation, and will provide an overview of the anticipated investigative process. The parties shall be informed they are not to contact each other about the complaint and investigation.
3. An investigation shall be completed as quickly as practicable, but within 30 days of receipt of the complaint, unless extenuating circumstances require a longer period of time. All parties shall be notified of the extension of time.
4. Within 10 working days of the conclusion of the investigation, the Director of Human Resources shall provide all parties a written summary reviewing the complaint, response, evidence, and findings. The findings shall indicate whether it appears more likely than not that a violation of this policy occurred. This conclusion will be determined by the preference of the School District. However, under no

circumstances should an investigator make findings and conclusions of law which define the specific nature of the violations. The parties will not be provided a copy of the investigative report.

5. The parties will then have 10 working days to provide written responses to the report and will have them considered by the Human Resources Director.

REMEDIAL ACTION AND DISCIPLINE

1. If a complaint is found to be factually supported in whole or in part, the Superintendent shall implement corrective or disciplinary action necessary to eliminate the effects of the discrimination upon the complaining party or other persons, similarly situated. The complainant and respondent shall be given a written copy of corrective and remedial actions to be taken.
2. Once the Superintendent has reviewed the report by the Human Resources Director along with responses filed by any parties, he or she shall determine whether to close the complaint, attempt conciliation between the parties, or initiate disciplinary proceedings.
3. If disciplinary action is recommended, the respondent shall be notified of due process rights as set forth in personnel handbooks for certified or classified employees.
4. Within 90 days following the resolution of a complaint or the imposition of sanctions resulting from a complaint, the Director of Human Resources shall conduct a review to determine if the resolution of the case is being followed. If the resolution is being followed, the matter will be deemed closed. If the resolution is not being followed, the case shall be referred back to the Human Resources Director for further action.

OUTSIDE REPORTING PROCEDURES

Nothing in this policy shall prohibit a person from filing an employment discrimination claim directly with the Utah Anti-Discrimination and Labor Division, 160 East 300 South, Salt Lake City, Utah 84116.

Nothing in this policy shall prohibit a person from filing an education discrimination claim with the Office of Civil Rights, of the U. S. Department of Education.

Approved: 3-16-05

DISCRIMINATION AND HARASSMENT REPORT FORM

Nebo School District maintains a firm policy prohibiting all forms of discrimination or harassment based on race, color, national origin, sex, religion, pregnancy, disability, age, status as a veteran of the Vietnam era, or any other legally protected class(es) as defined by applicable state and federal law. All persons are to be treated with respect and dignity. Forms of discrimination or harassment by any person, male or female, which create an intimidating, hostile or offensive environment will not be tolerated under any circumstances.

Complainant _____

Home Address _____

Work Address _____

Home Phone _____ Work Phone _____

Date of Alleged Incident(s) _____

Name of person you believe discriminated against or harassed you or another person _____

Where did the incident(s) occur? _____

Name of potential witness(es) _____

Describe the incident(s) as clearly as possible, including such things as: what force, if any was used; any verbal statements (i.e., threats, requests, demands, etc.); what, if any, physical contact was involved; what harm it caused you etc.

(Attach additional pages if necessary)

This complaint is filed based on my honest belief that _____

has discriminated against or harassed me or another person. I hereby certify that the information I have provided in this complaint is true, correct and complete to the best of my knowledge and belief.

Complainant Signature

Date

Received By

Date