

SOAR Elementary School  
Anti-Discrimination and Discriminatory Harassment Policy  
Board Approved as of: \_\_\_\_\_, 2024

**Please note that resources for persons who have been victims of violence, and contact information for outside agencies that enforce civil rights, are provided at the end of this policy. The SOAR Elementary School Civil Rights Coordinator/Title IX Coordinator’s contact information is provided in paragraph eight (8), below.**

**1. Effective Date.** The provisions of this policy based on state law are effective immediately. The provisions based on federal law are effective August 1, 2024. To the extent provisions of this policy are consistent with current federal regulations, they may be used before August 1. In relation to any Title IX sexual harassment proceeding initiated before August 1, 2024, the provisions of Part 106 of Title 34 of the Code of Federal Regulations then in effect shall be followed.

**2. Notice of Nondiscrimination.** SOAR Elementary School (“School”) does not discriminate and prohibits discrimination based on a person’s perceived or actual protected status, which includes disability, race, creed, color, sex, sexual orientation, gender identity, gender expression, family composition, religion, age, national origin, or ancestry in any education program or activity that it operates, as required by Title IX of the Education Amendments of 1972, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, other federal laws, and state law. Under state law, it is discriminatory for an individual to knowingly or intentionally use a name other than the student’s chosen name or to knowingly or intentionally engage in the avoidance or refusal to use a student’s chosen name when the student has chosen a name to better reflect their gender identity.

Furthermore, the School treats harassment, as defined in federal and state law, based on any protected status, as a form of such discrimination, and therefore forbidden. While this prohibition will most often involve allegations that students harassed students, employees harassed employees, or employees harassed students, it protects every person who receives any benefit or enjoys any privilege from the School (students, employees, volunteers, parents, and others) from every other person who is under some degree of control by, or obtains some benefit or privilege from, the School.

**A. General Statement. Policy Application.** This policy addresses complaints of general discrimination and discriminatory harassment prohibited under Title IX and state law. It does not apply to issues that would be properly addressed under a student’s 504 Plan or IEP. While certain circumstances may trigger multiple policies, for instance the discrimination provisions of this policy and the terms of a 504 plan, the School’s Civil Rights Coordinator/Title IX Coordinator can help guide you to the policies applicable to your circumstances.

**B. Discrimination and Harassment.** Under the law, certain characteristics are protected from discrimination as well as discriminatory harassment. Discrimination is a standalone legal concept that need not implicate harassment. Harassment, however, under the law, is

a form of discrimination. In this policy, the concept of discrimination will be referred to as such while the concept of harassment will be addressed as either discriminatory harassment or harassment.

**3. Title IX Explained.** Title IX of the Education Amendments of 1972 ("Title IX") is a Federal law that prohibits discrimination on the basis of sex or gender, stating:

*"No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."*

Title IX protects against sexual discrimination and/or harassment of any person by any person in relation to the benefits of an educational program or service provided by schools receiving Federal funding. In compliance with Title IX and its regulations, the School is committed to providing a working and learning environment that is free from discrimination based on sex or gender, including sexual harassment, and does not discriminate on the basis of sex or gender in any of its education programs or activities, including admission and employment.

**4. State Discrimination and Discriminatory Harassment Law Explained.** Colorado Revised Statute § 22-1-143 requires schools to adopt and implement policies protecting students against harassment and discrimination. Some potentially discriminatory and/or harassing behaviors that do not meet the Title IX standard or definition of "sexual harassment" do meet the Colorado standard. Colorado civil rights laws (*see* Colorado Revised Statutes § 24-34-400.2, *et seq.*) similarly prohibits sexual discrimination and/or harassment of employees and adopts a standard or definition of sexual discrimination and/or harassment separate and distinct from that in federal law.

Colorado statutes also expressly provide that the prohibition on discrimination and/or harassment extends to every legally protected status. Where Title IX rules and state law rules overlap, the School will follow both laws, whenever possible. Inconsistencies, if any, are resolved by either following the rule that is more protective, or by finding that the federal rule preempts an inconsistent state rule (more below), or both.

**5. Relation to Expectations for Students, Employees, and Others.** Behavior that is not discrimination and/or harassment under federal or state law may still be misbehavior that results in some disciplinary consequence for students, some employment consequence for employees, or some restorative or other process. Behavior can be bullying, insubordinate, dangerous, or detrimental to others, or otherwise inappropriate without being discriminatory or without constituting harassment. This policy does not address such issues.

**6. Definitions.**

*Complainant* means a person who is alleged to have been subjected to conduct that violates Title IX or state law, or a person who is alleged to have been subjected to conduct that violates Title IX or state law and who was participating or attempting to participate in the School's education program or activity at the time of the alleged conduct.

*Confidential Employee* means an employee of a School whose communications are privileged or confidential under Federal or State law. The employee’s confidential status is only with respect to information received while the employee is functioning within the scope of those duties to which privilege or confidentiality applies. A social worker who provides counseling to students and also helps at the school’s front desk is a “confidential employee” with respect to their student counseling, but not with respect to routine front office work.

*Conflict of Interest* means a conflict between the private interests and the official or professional responsibilities of a person in a position of trust; or a conflict between competing duties (as in an attorney's representation of clients with adverse interests).

*Dating Violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be based on consideration of: the length of the relationship; the type of relationship; and the frequency of interaction between the persons involved in the relationship.

*Domestic Violence* means a felony or misdemeanor crime committed by a person who:

- Is a current or former spouse or intimate partner of the victim;
- Is a person with whom the victim shares a child with, by a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
- Is a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
- Commits acts against an adult or youth victim who is protected from those acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

*Gender Identity* means an individual’s innate sense of the individual’s own gender, which may or may not correspond with the individual’s sex assigned at birth.

*Hostile Environment* means unwelcome conduct based on person’s protected status or targeting the person due to that status that, based on the totality of the circumstances, is subjectively and objectively offensive such that it limits or denies a person’s ability to participate in or benefit from employment (in the case of work) or the School’s education program or activity (in the case of education). For clarity, hostile work environment discrimination and hostile educational environment discrimination is prohibited. Under Title IX, the measure of whether a benefit offered by the school is sufficiently impacted is the “severe or pervasive” test. Under Colorado law, the “severe or pervasive” element does not apply.

*Preponderance of the Evidence* means a burden of proof requiring the party with the burden to convince the fact finder that there is a greater than 50% chance that the claim is true ("more likely than not").

*Protected Status* includes race, color, or ancestry; creed or religion; sex, sexual orientation, gender identity, or gender expression; family composition or caregiver status; genetic information; age or disability; national origin; past, present, or future military service; and any other status protected by federal, state or local law.

*Quid Pro Quo* means an employee, agent, or other person authorized by the School to provide an aid, benefit, or service under the School's education program or activity explicitly or impliedly conditions the receipt of such aid, benefit, or service on a person's participation in unwelcome sexual conduct. *Quid pro quo* behavior is, by definition, "severe or pervasive."

*Reasonable Person* refers to a reasonable person under similar circumstances and with similar identities to the victim.

*Respondent* means an individual who has been reported to be the perpetrator of conduct that could constitute discrimination and/or harassment.

*School* means SOAR Elementary School.

*Sexual Assault* means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the FBI.

*Sexual Harassment* means a person conditioning the provision of an aid, benefit, or service of the School on another person's participation in unwelcome sexual conduct. For Title IX purposes, this is unwelcome conduct determined by a reasonable person to be so severe or pervasive and subjectively and objectively offensive that it effectively denies a person equal access to the School's education program or activity; or Sexual Assault, Dating Violence, Domestic Violence or Stalking. For Colorado law purposes, sexual harassment is defined in more detail below.

*Sex Offense* means any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

*Stalking* means engaging in a course of conduct directed at a specific person that would cause a reasonable person to: fear for the person's safety or the safety of others; or, suffer substantial emotional distress.

*Substantial Emotional Distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

*Supportive Measures* means individualized services provided to a complainant or respondent that are non-punitive, non-disciplinary, and do not unreasonably burden the other party yet are designed to restore or preserve a person's equal access to education.

**7. Policy Notice.** The School will provide notice of its policy to students, parents, guardians or other authorized legal representatives, employees, applicants for admission and employment, unions and professional organizations, if any, holding collective bargaining or

professional agreements with the School. The policy will be available for review on the School's website, in handbooks, catalogs, announcements, bulleting, and application forms. Specifically, the distributed policy, whether a physical or electronic copy:

- must be in English, and upon request in Spanish;
- will be displayed on the School's home page of its website;
- will be posted on the website in English, and may also be posted in Spanish;
- must be annually distributed to the School's employees;
- must be annually distributed, through electronic means, to parents and legal guardians of students enrolled in the School;
- must be annually distributed separately to students enrolled in sixth (6) through twelfth (12) grade.

Electronic copies of the policy must be distributed separately from any other document. Upon request, a physical copy of the policy must be distributed to each incoming student and the parent or legal guardian of each incoming student. The School will also post notices concerning this policy. Notices will be:

- posted in multiple conspicuous places in the School that are easily accessible and well-lit;
- posted in places that are customarily frequented by students and employees;
- written in simple and age-appropriate language;
- explain that the student or employee can report the harassment or discrimination in writing, in-person, by phone, e-mail, or via an online form;
- identify a person in the School the student(s) can report the harassment or discrimination to; for reporting purposes, contain the e-mail information, phone number, and office location of the School official who is to take student and employee reports of harassment or discrimination; and
- contain the location of where a written complaint can be securely submitted; and, provide information as to where an online form can be obtained and submitted.

**8. Civil Rights Coordinator/Title IX Coordinator.** The School has appointed a single coordinator for all internal civil rights or discrimination complaints, including all complaints of discriminatory harassment. For clarity, this person's responsibilities include being

both the Civil Rights Coordinator and the Title IX Coordinator, also referred to as the “Coordinator.”

9. The School uses a single investigator model and does not conduct formal hearings. This means the Coordinator can act as Coordinator, investigator, and decision-maker. References to “investigator” or “decision-maker” in this policy will refer in many cases to the Coordinator. The Coordinator may delegate duties as a Coordinator, or investigator, or decision-maker to other individuals as appropriate in particular cases. Delegation must take place if the Coordinator has a conflict of interest or may take place because of the complexity or nature of a particular case. The Coordinator’s contact information is: SOAR Senior Director, Sonia Sisneros, 303.895.5305 (cell phone), [ssisneros@soardenver.org](mailto:ssisneros@soardenver.org), 720.287.5100 (school land line).

10. **Confidential Employee — Notice & Reporting Obligation.** The School will notify all persons who may benefit from the services of a School confidential employee how to contact the confidential employee. A confidential employee who is contacted about a potential Title IX violation must notify the person reporting to them —

- of their status as a confidential employee;
- that the confidential employee is not required to notify the Title IX Coordinator about conduct that may be a violation of Title IX;
- how to contact and make a complaint with the Title IX Coordinator, and
- that the Title IX Coordinator may be able to offer and Coordinate supportive measures.

11. **Duty to Report.** Other than a confidential employee acting in their confidential capacity in relation to a Title IX matter, every employee and authorized volunteer of the school is required to report any information they receive that causes them to reasonably suspect an instance of discrimination and/or discriminatory harassment. That report must be made to the Civil Rights Coordinator/Title IX Coordinator.

12. **Recognizing Discrimination and/or Discriminatory Harassment.** Discrimination arises when an individual is treated adversely by others because of a perceived or actual protected category. Harassment typically results from unwelcome physical or verbal conduct or any written, pictorial, or visual communication aimed at a person due to their protected status. Because the law of discriminatory harassment is well developed in the case of sexual harassment, more detailed definitions and descriptions help capture the idea of sexual harassment. Other forms of harassment can be understood by analogy or comparison to sexual harassment.

**Under Title IX** sexual harassment may be based on use of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, or gender identity. Sexual harassment may be *quid pro quo* harassment or hostile environment harassment or may involve a mixture of the two. In evaluating whether a pattern of unwelcome conduct based on or targeting a person due to sex meets the “hostile environment” test under Title IX, the question is whether the

conduct has adversely and sufficiently affected or impaired the complainant's working conditions (for employees) or ability to access the School's education program or activity (for students). Factors considered in determining what is "harassment" include the type, frequency, and duration of the conduct; the parties' ages, roles within the School's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct; the location of the conduct and the context in which the conduct occurred; and whether other sex-based harassment has occurred in the School's education program or activity. For conduct to meet the Title IX standard it must be sufficiently severe or pervasive to change conditions of work for employees or impair access to the educational program for students. Some conduct is sufficiently severe that it can constitute sexual harassment even on one occasion. This includes sexual assault; dating violence; domestic violence; stalking; and *quid pro quo* harassment.

**Under Colorado law** the conduct or communication does not need to be severe or pervasive and will constitute harassment or discrimination if: (1) submission to the conduct or communication is explicitly or implicitly made a term or condition of employment or of a student's access to an educational service, opportunity, or benefit; (2) submission to, objection to, or rejection of the conduct or communication is used or threatened (explicitly or implicitly) to be used as a basis for employment or educational decisions affecting the employee or student; or, (3) the conduct or communication has the purpose or effect of unreasonably interfering with the employees job or the student's access to their educational service, opportunity, or benefit, or creates an intimidating, hostile, or offensive work or educational environment.

In the case of employment, conduct is harassing under Colorado law when the conduct would be subjectively offensive to the individual alleging harassment and, in the case of both employment and education purposes, would be objectively offensive to a reasonable person in the same protected class or who shares the same or similar characteristics as the individual subjected to the conduct. With both employment and education, petty slights, minor annoyances, and lack of good manners are not in themselves harassment, but when taken individually (for employment purposes) or in combination (for employment and education purposes) and under the totality of the circumstances, may constitute harassment or discrimination. To determine whether conduct constitutes harassment or discrimination under Colorado law, one must look at the totality of the circumstances of the conduct or communication, including:

- The frequency of the conduct or communication, recognizing that a single incident may rise to the level of harassment or discrimination;
- The identity of the person or persons engaged in the conduct;
- The identity of the person subject to the conduct;
- The number of individuals engaged in the conduct or communication;
- The type or nature of the conduct or communication;
- The duration of the conduct or communication;

- The location where the conduct or communication occurred;
- Whether the conduct or communication is threatening;
- Whether any power differential exists between the individual alleged to have engaged in harassment or discrimination and the individual alleging the harassment or discrimination;
- Any use of epithets, slurs, or other conduct or communication that is humiliating or degrading;
- Whether the conduct or communication reflects stereotypes about an individual or group of individuals in a protected class; or
- Whether the conduct includes an act of physical violence.

**13. Process for Responding to Complaints of Discrimination or Discriminatory Harassment.** The following procedures provide for the prompt and equitable resolution of complaints of discrimination and/or discriminatory harassment.

**A. Supportive Measures.** Upon receipt of a report of possible discrimination or discriminatory harassment the Civil Rights Coordinator/Title IX Coordinator shall meet with the potential complainant. The Coordinator will offer the complainant supportive measures. For students, supportive measures may include, but are not limited to, counseling, extensions of deadlines, other course adjustments, extra time for homework or tests, correction of an impacted grade, excused absences, opportunities for home instruction, schedule modifications, and restrictions on contact between the parties to a harassment complaint.

**B. Filing a Complaint.** The Coordinator shall determine if a formal complaint is being filed. A formal complaint can be filed by a complainant, by the parent of a student, or, in certain circumstances, by the Coordinator. If the complainant and the parent of a student, if applicable, does not want to file a formal complaint, the Coordinator must consider: the request of a complainant not to proceed; any reasonable safety concern; the risk that not filing will allow additional acts of harassment or discrimination; the severity of the alleged behavior; the age and relationship of the parties (including whether the respondent is an employee); whether the alleged discrimination is part of a pattern, ongoing, or has impacted multiple individuals; the availability of evidence to enable a decision; and whether informal resolution or other steps could end the alleged behavior. If the allegation is of sexual harassment of a student by an employee, the Coordinator must file the complaint.

**C. Relation to Mandatory Reports — Relation to Outside Investigations.** Nothing in this policy in any way alters the obligation of licensed staff to make mandatory reports required by law to appropriate outside authorities. The School shall not unduly delay investigation in order to accommodate outside investigators (e.g., police or child



protective services). The School may initially defer to police or child protective services in order to not be charged with interfering with such investigations, and in order to permit highly trained forensic investigators to interview minors. The School may admit the results of a police or child protective services investigation into evidence but shall not rely exclusively on such a report.

**D. Dismissal** If the facts alleged in a complaint, if true, would not constitute sexual discrimination or harassment under federal law or, discrimination or harassment under Colorado law, the Coordinator must dismiss the complaint only after making reasonable efforts to clarify the allegations with the complainant. The Coordinator may dismiss a Title IX complaint, but allow a complaint under Colorado law to proceed, if appropriate. A formal complaint may also be dismissed if: after reasonable effort, the respondent cannot be identified; the respondent is no longer employed by or enrolled at the School; the complainant voluntarily withdraws any or all allegations such that, after reasonable efforts to clarify the remaining allegations, the alleged conduct would not constitute discrimination; or a complaint filed by a Coordinator would not have been so filed. Upon dismissal, notice of the reasons for dismissal shall be given to the complainant and, if the respondent has been notified of the complaint, to the respondent. When a complaint alleging harassment is dismissed, the Coordinator will at a minimum offer supportive measures to the complainant and, if the respondent has been notified of the allegations, offer supportive measures to the respondent, as appropriate. In the event of a dismissal, the School, through the Coordinator, will still need to take prompt and effective steps to ensure that any inappropriate behavior does not continue or recur within the School's education program or activity. A dismissal may be appealed. If appealed, the Coordinator must notify the respondent of the appeal and the allegations of the complaint (if not previously provided), implement appeal procedures, appoint a properly trained decision-maker that did not take part in an investigation of the allegations or dismissal, give parties a reasonable and equal opportunity to make a statement, and notify the parties, in writing, of the result of the appeal and the rationale for the result.

**E. Informal Resolution.** Except in cases involving alleged sexual harassment of students by an employee, or if otherwise prohibited by law, the Coordinator may at any time offer the opportunity for informal resolution by giving notice to the parties. The complainant or parent of the complainant, as appropriate, and respondent must each agree to an informal resolution process and shall not be pressured to engage in informal resolution nor required to waive any rights in order to participate in informal resolution. At any time prior to final resolution, a party may withdraw from the informal resolution and resume, if desired, a formal complaint process. Before an informal resolution process commences, the Coordinator must provide the complaint and respondent with notice of the allegations, the requirements of the anticipated process, the ability to withdraw before resolution, and that the parties' agreement to an informal resolution result will end the complaint and preclude any resumption of the complaint. The person managing an informal resolution process may be the Coordinator but may not be a subsequent investigator or decision maker in the same matter.

**F. Consolidated Matters.** A school may consolidate complaints of Title IX or state violations against more than one respondent or by more than one complainant when the allegations arise out of the same facts or circumstances.

**G. Notice to the Respondent — Supportive Measures — Interim Protective Measures.** If a formal complaint is filed and not dismissed, the Coordinator shall provide notice to the respondent. Notices will include a copy of this policy and sufficient information to allow the parties to respond to the allegations. Sufficient information includes the identity of the parties, the conduct alleged, and the dates and locations of alleged incidents, to the extent known by the Coordinator. Notice will also include a statement that retaliation is prohibited and a statement that the parties will have equal access to relevant and not otherwise impermissible evidence or an accurate description of such evidence, with an opportunity to request access to the underlying evidence. If additional relevant facts or allegations become known during the process, the investigator shall update the notice of sufficient information, as appropriate, to both parties. At the time notice is provided, the Coordinator shall offer supportive measures to the respondent. The Coordinator may also take protective measures for student complainants and respondents, including measures to keep students separated during the investigation or recommending to the school leader to place an employee on paid administrative leave.

**H. Authority Reserved.** Except as stated in this paragraph nothing in this policy prevents the School from suspending a student for cause otherwise provided and permitted by law or placing an employee on paid administrative leave as otherwise provided and permitted by law. Student complainants shall not be investigated or receive a disciplinary response such as suspension for reasonable self-defense, consensual sexual activity, drug use, alcohol use, late arrival, truancy, unauthorized access to facilities, talking publicly about reported harassment or discrimination, or expressing a trauma symptom, except that a student may be disciplined for making a knowingly false report or if necessary to ensure the safety of other persons.

**I. Emergency Removal** of an alleged offender from the School's education program or activity must take place if, after an individualized safety and risk analysis, there is an immediate threat to the physical health or safety of any student or other individual arising from the allegations of discrimination and/or harassment and the alleged offender is provided with notice and an opportunity to challenge the decision immediately after the removal.

**J. Equal Treatment in Investigation — Presumption of No Responsibility — Preponderance of Evidence — Protection of Privacy.** The School's investigation will be even-handed, and accord the complainant and respondent equitable treatment. Any person acting as a Coordinator, investigator, or decision-maker must not have a conflict of interest in relation to or bias against the complainant or respondent. During the process, it is presumed the respondent is not responsible for the discrimination and/or harassment. This presumption applies until a determination is made. The burden of proof to overcome the presumption of no responsibility is a preponderance of evidence ("more likely than

not”). The Coordinator, investigator, decision maker, and any persons hearing an appeal will maintain the privacy of the parties, provided that this does not restrict assuring that each party has the ability to understand the issues and obtain and present evidence, consult with family and advisors, use advocates, speak to witnesses, and others to prepare for and participate in the process.

**K. Prompt Investigation.** When a report for harassment or discrimination is submitted, the School will make a good faith effort to complete the investigation and make any findings within sixty (60) days from the date the report was filed. The School can extend the sixty (60) day deadline for an additional thirty (30) days when an extension is requested by a law enforcement agency or when the School has good cause for such an extension. If good cause exists to extend the sixty (60) day deadline, the School will provide the complainant and the respondent with prior written notice explaining the reasons for the delay. At each stage of the investigation or proceeding, the individual conducting the investigation, or the individual’s designee, will provide the parties and the parties’ parents or legal guardians with a written update, at least every fifteen (15) business days, about the status of the investigation or proceeding.

The specific steps of the investigation will vary based on the nature of the allegations and other factors, but the investigator’s inquiry will be prompt, thorough, and impartial. It is the School’s (not the parties’) responsibility to gather evidence sufficient to reach a determination. The investigation may include, but is not limited to, any of the following: interviews of the parties and/or witnesses; requests for written statements from the parties and/or witnesses; and review and collection of relevant documentation or information. The investigator will contact each party and give them an equal opportunity to present fact witnesses and any other inculpatory and exculpatory evidence that is relevant and not otherwise impermissible. The investigator will review the evidence and determine what is relevant (directly related to the allegations) and which evidence is impermissible regardless of relevance (as defined in Title IX regulations). After collecting and identifying relevant evidence, the investigator will create a draft investigative report that fairly summarizes the relevant evidence obtained as part of the investigation.

Both parties will have an equal opportunity to inspect any evidence obtained as part of the investigation, and mentioned in the draft investigative report, that is directly related to the allegations in the formal complaint, regardless of whether it supports the allegations. The investigator will send evidence and the investigation report to the parties, and any advisor(s), to inspect and review, after which the parties must have at least 10 school days to submit a written response to the evidence, which the investigator will consider prior to completing the investigative report.

After reviewing any party responses to the evidence, the investigator will finalize their report and either make a decision or send their report to a designated decision-maker, if applicable. If the decision maker is different from the investigator, the investigative report will be advisory in nature and will not bind the decision-maker to any particular decision,

course of action, or remedial measure. The decision-maker will notify the parties in writing of their determination and provide the rationale for such determination.

**L. Optional Use of Separate Decision-Maker.** A decision-maker receiving an advisory report from an investigator shall review the investigative report and prepare a draft determination resolving the complaint, based solely on information contained in the investigative report. The decision-maker shall provide the draft determination to each party and allow a reasonable opportunity for the parties to submit a written argument related to the proposed determination. The decision-maker shall then consider the written arguments and finalize their decision, providing concurrent notice of such decision to each party.

**M. Appeal.** Any party can appeal the decision-maker's determination within three school days of its issuance. Any party may file an appeal by making a written request to the Coordinator detailing the reason for the appeal. Permitted reasons for appeal are: procedural irregularity that affected the outcome of the matter; new evidence that was not reasonably available at the time of the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; or the Coordinator, investigator, or decision-maker had a conflict of interest or bias for or against complainants or respondents generally or against the individual complainant or respondent that affected the outcome of the matter. Upon receipt of a timely appeal, the Coordinator will notify the parties that an appeal has been filed, including the notice of the allegations, if notice was not previously provided to the respondent. The Coordinator will arrange a person or persons who does/do not have a conflict, such as someone who did not participate in the prior investigation or dismissal of the initial complaint and notify the parties of the selected reviewer(s). The selected reviewer(s) shall decide the appeal. The reviewer(s) will notify the parties of the appeal procedures and set a schedule for the parties to submit a written statement in support of, or challenging, the decision-maker's determination. Upon reviewing both parties' statements, the reviewer(s) will issue a reasoned written decision describing the result of the appeal and rationale for the result. The decision of the reviewer(s) will be final and binding on the parties.

**N. Remedies.** Remedies under this grievance procedure must be designed to restore or preserve equal access to employment for employees and to the education program or activity for students. For students, the range of possible remedies may include but are not limited to: restorative conversations, safety escorts, change of classes, change of placement, or school disciplinary outcomes up to and including expulsion. For employees, the range of possible remedies may include but is not limited to: restorative conversations, no-contact order, change of work assignment, or discipline up to and including termination of employment. If the decision-maker lacks the requisite disciplinary authority, disciplinary remedies may be recommended to the appropriate school official or supervisor. If the appropriate school official or supervisor is acting as decision-maker,

disciplinary remedies can be a part of their determination. The Coordinator is responsible for effective implementation of any remedies.

**O. Persons with Disabilities.** If the complainant or respondent is a student with a disability, the Coordinator must consult with one or more members, as appropriate, of the student's Individualized Education Program (IEP) team or one or more members, as appropriate, of the group of persons responsible for the student's placement decision to determine how to comply with the requirements of the Individuals with Disabilities Education Act and Section 504 of the Rehabilitation Act of 1973 in the implementation of supportive measures. As to all complainants and respondents with a disability, nothing in this policy alters the application of Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, or Colorado Civil Rights law respecting persons with disabilities.

**14. Retaliation.** No retaliation will be made against any person who makes a report or participates in an investigation into a report made concerning discrimination and/or harassment, whether brought under this policy or before an outside agency. Charges against a student for code of conduct violations related to the incident for the purpose of punishing a student for making a report or otherwise interfering with any right or privilege will constitute retaliation. Disciplining a party, witness, or others participating in the grievance procedures for making a false statement based solely on the conclusion that discrimination and/or harassment did or did not occur will constitute retaliation. The school, however, may discipline a student or employee, or any other participant for making knowingly false representations concerning alleged discrimination and/or harassment. Such discipline is not retaliation.

**15. Record Retention.** The School must retain records of a harassment or discrimination report for seven (7) years. The record of a report must include the following: accommodations or supportive measures taken in response to a report or formal complaint of harassment or discrimination; documentation of the basis for the local education provider's action and response; records documenting any informal resolution process or the grievance procedures and any resulting outcome; records documenting the actions the School took to meet its obligation in responding to the report of harassment or discrimination; and, materials it used to provide training (which must be available upon request for inspection by members of the public).

**16. Employee Training.** The School must provide training to all employees regarding harassment and discrimination. Each new employee must complete training upon hiring. Each employee must complete training at least every three years from the last date of training. An employee must complete training when transferring from a position working with elementary school-aged students to a position working with secondary school-aged students. An employee must complete training when transferring from a position working with secondary school-aged students to a position working with elementary school-aged students. Training must

be provided during an employee's normal working hours. At a minimum, the training must include instruction on the following:

- Recognizing harassment or discrimination, including indicators of grooming and child sexual abuse;
- Appropriate immediate response when harassment or discrimination is reported to or witnessed by an employee;
- Reporting harassment or discrimination to the public school or school district;
- If an employee has direct supervision of students, the training must include the School's procedure for responding to allegations of harassment or discrimination; differences between the School's harassment or discrimination policy; obligations required by Title IX; section 504 of the federal "Rehabilitation Act of 1973"; Title VI of the federal "Civil Rights Act of 1964; Title VII of the federal "Civil Rights Act of 1964; and mandatory reporting requirements in state law;
- Best practices to avoid 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.

**17. Reporting Data to the School District.** A particular incident may involve reporting requirements under the charter contract, federal and/or state laws including, but not limited to, child abuse and teacher licensing. In addition, formal student claims of discrimination and/or harassment, as defined in state law, must be reported annually to the school district which will then report school data to the department of education. On or before July 1 of each year the School shall provide to Denver Public Schools, the following information, aggregated and without personally identifiable information about the parties, from the past twelve (12) months:

- The number of formal harassment or discrimination reports received by the School and the type of bias reported when harassment or discrimination was found; and,
- The time to complete each investigation and to make findings related to each report.

**18. Hold Harmless for First Amendment Activities.** The expressive conduct of students, employees, or others protected under the First Amendment of the United States Constitution does not constitute harassment. If an individual alleges that the conduct they are being disciplined for is protected under the First Amendment of the United States Constitution,

the School will assess the conduct to determine whether it is afforded First Amendment protection.

**The following are resources available to victims of violence:**

The Center for Trauma & Resilience Helpline Numbers  
(303) 894-8000 (English)  
(303) 718-8289 (Español)

Monday through Friday – 9:00 a.m. – 5:00 p.m.  
Saturday – 9:00 a.m. – 2:00 p.m.

Relay for the Hearing and Speech Impaired  
Please use 711 Relay Colorado to access our helpline

Translation & Interpreting Center  
(303) 996-0976 English  
(303) 996-0975 Español  
(303) 996-0974 FAX

**Several outside agencies enforce civil rights laws. Claims of violation of such laws may be made, in different circumstances, to the following agencies:**

Office for Civil Rights  
United States Department of Education  
Cesar E. Chavez Memorial Building  
1244 Speer Blvd., Suite 300  
Denver, CO 80204  
(303)844-5695  
(303)844-4303(fax)  
[OCR.Denver@ed.gov](mailto:OCR.Denver@ed.gov)

Denver Field Office  
Equal Employment Opportunity Commission  
950 17<sup>th</sup> Street  
Suite 300  
Denver, CO 80202  
1-800-669-4000  
303-866-1085 (fax)  
1-800-669-6820 (TTY)

844-234-5122 (ASL Video Phone)

Colorado Civil Rights Division

1560 Broadway, Suite 825

Denver, CO 80202

303-894-2997 (para español, oprima dos) | 711 TTD - Relay

303-894-7830

General Inquiries: [DORA\\_CCRD@State.co.us](mailto:DORA_CCRD@State.co.us)

Intake Unit: [DORA\\_CCRDIntake@State.co.us](mailto:DORA_CCRDIntake@State.co.us)

Assistant Secretary for Civil Rights

U.S. Dept. of Educ. Office for Civil Rights

Washington, D.C. 20202-1100

1-800-421-3481

1-800-877-8339 (TDD)

202-453-6012 (Fax)

[OCR@ed.gov](mailto:OCR@ed.gov)