



## **SECTION V: EMPLOYEES**

## **POLICY 5300**

### **DISCRIMINATION, HARASSMENT, AND RETALIATION**

The District is committed to providing all students and employees with a safe and respectful school environment. Both state and federal law specifically prohibit harassment of or by employees and students in connection with the District.

The District prohibits discrimination, harassment or retaliation based on real or perceived race, color, sex, pregnancy, gender, gender identity or expression, national origin, religion, disability, veteran status, sexual orientation, age, or genetic information. This prohibition applies to students, employees and board members in any aspect of the District's programs, including during school hours, extracurricular activities, school sponsored events, or outside of school hours if the conduct affects the education or working environment.

This policy addresses the above-listed prohibited forms of discrimination, harassment or retaliation with the exception of sex, gender (including gender identity or expression) and sexual orientation discrimination, harassment, or retaliation, which are separately addressed in District Policy 5400.

#### **Definitions**

"Employee" for purposes of this policy, includes all District employees, board members and volunteers.

"Student" refers to any person who is enrolled in any District school or program.

"Discrimination" means unfair treatment which is based on a person's real or perceived race, color, pregnancy, national origin, religion, disability, veteran status, age, or genetic information.

Examples of discrimination include, but are not limited to: Refusing to consider a person for a position or declining to enroll a student in a program based on legally discriminatory factors. Harassment can be a specific form of legally prohibited discrimination.

"Harassment" means repetitive, unwelcome conduct which is based on a person's real or perceived race, color, pregnancy, national origin, religion, disability, veteran status, age, or genetic information.

Examples of harassment include, but are not limited to: slurs, epithets, insults, jokes or derogatory comments; verbal or physical abuse; intimidation (physical, verbal or psychological); impeding or blocking a person's movement; unwelcome touching, crude jokes or pictures, and verbal or physical gestures.

"Retaliation" is any negative conduct which is taken in response to an individual's complaint of harassment or discrimination, or participation in any investigation of a harassment or discrimination complaint.

#### **Reporting**

Students who have been harassed or discriminated against, or who witness such conduct, are encouraged to report the offensive conduct to any teacher, counselor, administrator, or board



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member.

Employees who witness, suspect or receive a report of harassment or discrimination must immediately report the incident to the Superintendent and/or designee – even if that report must be made after hours to the Superintendent’s and/or designee’s home or cell phone.

Any employee who receives a harassment, discrimination or retaliation report will immediately refer the matter to the Superintendent and/or designee, unless the Superintendent and/or designee is the alleged malfasant. In such circumstances, the complaint will be referred to the board president or the District’s legal counsel. To ensure impartiality, no person who is the subject of a complaint shall conduct any investigation into the improper conduct.

If possible, reports should be made in person and/or in writing, and be signed by the reporting party. However, in order to encourage full, complete and immediate reporting, any person may report such incidents anonymously in writing by mailing the report to the personal attention of either the Superintendent and/or designee. All reports should state:

- the name of the alleged harasser;
- the person(s) being harassed;
- the nature, context and extent of the prohibited activity;
- the dates of the prohibited activity, and;
- any other information necessary to a full report and investigation of the matter.

Individuals may simultaneously report an allegation of this type of misconduct to school officials and to the United States Equal Employment Opportunity Commission, the Oklahoma Human Rights Commission, or local law enforcement.

#### **Administrative Response**

The District will promptly, thoroughly and impartially investigate all reports of harassment and discrimination. This process will include:

- A statement from the individual who was allegedly harassed;
- Appropriate and reasonable steps to separate and protect both the alleged victim and alleged harasser pending conclusion of the investigation and necessary remedial action;
- Reasonable updates to the alleged victim of the investigation’s progress, subject to federal and state laws and regulations;
- Interviews with the alleged harasser, alleged victim and witnesses; and



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- Review of relevant documents, including District files and records.

The District will review all relevant facts and take into account the totality of the circumstances - including the nature, extent, context and gravity of the activities. At the conclusion of this process, the Superintendent and/or designee, in conjunction with the appropriate coordinator, will issue findings based on the preponderance of the evidence and take appropriate measures, including but not limited to: education, information on available outside resources, training and counseling, transfer, suspension, and any other appropriate remedy under the circumstances. Employees may also be terminated for engaging in harassment, discrimination or retaliation.

Confidentiality shall be maintained during and after the investigation to the extent reasonably possible. However, public disclosure of personal or confidential employee information may be made during the course of any suspension, dismissal, non-renewal hearing or resulting litigation.

#### **Penalties**

Penalties shall be imposed based on the facts taken as a whole and the totality of the circumstances such as the nature, extent, context and gravity of such activities or incidents. Any disciplinary decision will be made as a proportional response to the violation.

Any employee or student engaging in harassment, discrimination or retaliation will be subject to any and all disciplinary action allowed by school policy and Oklahoma law.

Source: *Broken Arrow Board of Education policy adoption, April 5, 1993.*  
*Broken Arrow Board of Education policy revised, September 20, 1999.*  
*Broken Arrow Board of Education policy revised, July 13, 2009.*  
*Broken Arrow Board of Education policy revised, July 10, 2017.*  
*Broken Arrow Board of Education policy revised, June 25, 2018.*  
*Broken Arrow Board of Education policy revised, November 12, 2018.*  
*Broken Arrow Board of Education policy revised, November 9, 2020.*