
SECTION: J - Students
POLICY TITLE: Student Civil Rights Discrimination and Harassment
FILE No.: JDC
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1. PURPOSE

- 1.1. Nebo School District is committed to maintaining an educational environment in which all students are treated with respect and dignity. This includes ensuring that students are not subject to Harassment or Discrimination on the basis of race, color, religion, sex, national origin, disability, or any other classification protected by law.
- 1.2. The Nebo School District Civil Rights Coordinator is the Title Coordinator for student protection under the laws identified herein. All student civil rights issues should be directed to the Civil Rights Coordinator. As approved by the Superintendent or designee, the Civil Rights Coordinator may delegate Coordinator responsibilities to the Human Resource Officer or Student Success Coordinator.

**Civil Rights Coordinator
Nebo School District
350 South Main Street
Spanish Fork, Utah, 84660
Telephone: (801) 354-7440**

All issues related to physical barriers to building access and physical barriers to educational programs, activities, events, and services may be directed to the Nebo School District Risk Manager.

**Risk Manager
Nebo School District
350 South Main Street
Spanish Fork, Utah, 84660
Telephone: (801) 354-7474**

- 1.3. Discrimination, Harassment, and Sexual Harassment, as defined herein, are prohibited by state and federal law. Laws governing Discrimination, Harassment, and Sexual Harassment include but are not limited to the following.
 - 1.3.1. Title IX of the Education Amendments of 1972 (Title IX) provides that “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.” [20 U.S.C. §1681\(a\) \(2006\)](#). Sexual harassment under Title IX is governed by [Nebo School District Policy JDCB/GBEBB, *Sexual Harassment*](#).
 - 1.3.2. Section 504 of the Rehabilitation Act of 1973 (Section 504) provides that “No otherwise qualified individual with a disability . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” [29 U.S.C. § 794\(a\) \(2006\)](#). [Nebo School District Policy JR, *Section 504 of the Rehabilitation Act of 1973*](#) outlines the District’s 504 obligations and program more fully. Complaints of disability discrimination or harassment should be made in accordance with that policy.
 - 1.3.3. Title IV of the Civil Rights Act of 1964 (Title IV) grants the US Department of Justice jurisdiction and authority to investigate and resolve complaints of religious harassment, as well as to seek relief if a school deprives students of the equal protections of the laws. [42 U.S.C. §2000c-6 \(2006\)](#).
 - 1.3.4. Title VI of the Civil Rights Act of 1964 (Title VI) provides that “No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” [42 U.S.C. §2000d \(2006\)](#).

2. SCOPE

- 2.1. This policy is intended to protect District students against Discrimination and Harassment whether by fellow students, District employees, volunteers, or others under the District’s control. While this policy thus prohibits students from harassing and discriminating against other students, all students are prohibited from engaging in Discrimination and Harassment against others, including employees, as set forth in [Nebo School District Policy JD, *Student Conduct and Discipline*](#) and [Policy GBEB, *Employee Discrimination and Harassment*](#).
- 2.2. Bullying, cyber-bullying, harassment, hazing, and retaliation that are not based on one of the protected classifications found in Section 1.3 are governed by [Nebo School District Policy JDD/GBEA, *Prohibition of Bullying, Hazing, and Retaliation*](#). However, the complaint and investigation procedures in Sections 6 and 8 of this Policy JDC may be followed to determine and remedy violations of [Policy JDD/GBEA](#). Moreover, if a complaint under this policy includes allegations of bullying, the investigation should include findings and conclusions as to both civil rights violations under this policy as well as bullying under Policy JDD/GBEA.

3. POLICY

- 3.1. The District prohibits system-wide Discrimination of students, both through disparate treatment and disparate impact, in its programs, offerings, facilities, rules, policies, and practices.
- 3.2. The District prohibits sexual harassment of students as outlined in [Nebo School District Policy JDCB/GBEBB, *Student Sexual Harassment*](#).
- 3.3. The District prohibits Discrimination and Harassment of students, as defined and outlined herein, by other students, employees, volunteers, or other persons at school or at school-related activities and events.

- 3.4. The District encourages all complainants of Discrimination and Harassment, and all persons with knowledge of Discrimination and Harassment, to report it immediately as described in Section 6 below.
- 3.5. The District prohibits retaliatory behavior or action against persons who complain, testify, assist, or otherwise participate in the complaint process established pursuant to this policy or by any administrative directive.
- 3.6. The District will promptly investigate all verbal and written complaints of Discrimination and Harassment and will take prompt corrective action where a violation is found.

4. DEFINITIONS

- 4.1. **"Building Administrator"** means a principal, assistant principal, dean of students, or teacher on special assignment who has been trained on civil rights laws, this policy, and conducting investigations.
- 4.2. **"Changing room"** means the same as that term is defined in UTAH CODE ANN. § 63G-31-101 and means a space designated for multiple individuals to dress or undress within the same space. A changing room includes a dressing room, fitting room, locker room, or shower room; and a restroom when a changing room contains or is attached to the restroom.
- 4.3. **"Discrimination"** includes, but is not limited to, conduct which illegally disadvantages persons based upon race, color, religion, sex, national origin, disability, or any other classification protected by law.
- 4.4. **"Female"** means the same as that term is defined in [UTAH CODE ANN. § 68-3-12.5](#) and means the characteristic of an individual whose biological reproductive system is of the general type that functions in a way that could produce ova.
- 4.5. **"Harassment"** includes, but is not limited to, any behavior, expression, or activity that stigmatizes or victimizes individuals or groups of people because of their race, color, religion, national origin, disability, or any other classification protected by law, and that:
 - 4.5.1. Involves an express or implied threat which adversely affects a student's education or academic status or progress, participation in school or school-related activities and events, or personal safety;
 - 4.5.2. Has the purpose or effect of adversely interfering with a student's education or academic status or progress, participation in school or school-related activities and events, or personal safety; or
 - 4.5.3. Creates an intimidating, hostile, demeaning, or offensive educational environment.
- 4.6. **"Intersex individual"** means the same as that term is defined in [UTAH CODE ANN. § 26B-8-101](#) and means an individual who: (a) is born with external biological sex characteristics that are irresolvably ambiguous; (b) is born with 46, XX chromosomes with virilization; (c) is born with 46, XY chromosomes with undervirilization; (d) has both ovarian and testicular tissue; or (e) has been diagnosed by a physician, based on genetic or biochemical testing, with abnormal: (i) sex chromosome structure; (ii) sex steroid hormone production; or (iii) sex steroid hormone action for a male or female..
- 4.7. **"Male"** means the same as that term is defined in [UTAH CODE ANN. § 68-3-12.5](#) and means the characteristic of an individual whose biological reproductive system is of the general type that functions to fertilize the ova of a female.
- 4.8. **"Men's restroom"** means the same as that term is defined in [UTAH CODE ANN. § 63G-31-101](#) and means a restroom that is designated for the exclusive use of males and not females.

- 4.9. **"Privacy space"** means the same as that term is defined in UTAH CODE ANN. § 63G-31-101 and means a restroom or changing room within a publicly owned or controlled facility, where an individual has a reasonable expectation of privacy.
- 4.10. **"Restroom"** means the same as that term is defined in [UTAH CODE ANN. § 63G-31-101](#) and means any space that includes a toilet. Restroom includes sex-designated men's restrooms, sex-designated women's restrooms, unisex restrooms, and single-occupant restrooms.
- 4.11. **"Sex"** means the same as that term is defined in [UTAH CODE ANN. § 68-3-12.5](#) and means, in relation to an individual, the individual's biological sex, either male or female, at birth, according to distinct reproductive roles as manifested by: (a) sex and reproductive organ anatomy; (b) chromosomal makeup; and (c) endogenous hormone profiles.
- 4.12. **"Sex-designated"** means the same as that term is defined in [UTAH CODE ANN. § 63G-31-101](#) and means that a facility, program, or event is designated specifically for males or females and not the opposite sex.
- 4.13. **"Single-occupant"** means the same as that term is defined in [UTAH CODE ANN. § 63G-31-101](#) and means, in relation to a single-occupant facility or privacy space, that the facility or privacy space has floor-to-ceiling walls; has an entirely encased and locking door; and is designated for single occupancy.
- 4.14. **"Unisex"** means the same as that term is defined in [UTAH CODE ANN. § 63G-31-101](#) and means, in relation to a unisex facility or privacy space, that the facility or privacy space is designated for the use of both sexes; or is not sex-designated.
- 4.15. **"Women's restroom"** means the same as that term is defined in 63G-31-101 and means a restroom that is designated for the exclusive use of females and not males.

5. HARASSMENT AND DISCRIMINATION PROHIBITED

Types of conduct that are prohibited in the District and that may, upon examination of the totality of the circumstances, constitute Discrimination or Harassment based upon race, color, religion, sex, national origin, disability, or other classification protected by law (excluding sexual harassment as defined in [Nebo School Policy JDCB/GBEBB, Sexual Harassment](#)) include, but are not limited to:

- 5.1. Programs, offerings, or facilities that are inaccessible to students due to a protected classification, and rules, policies, or practices that exclude or deny a benefit to students based on a protected classification;
- 5.2. Threatening or intimidating conduct directed at a student because of the student's race, color, religion, national origin, physical or mental disability, or other classification protected by law;
- 5.3. Epithets, slurs, negative stereotypes, name calling, verbal abuse, derogatory comments, degrading descriptions, and hostile acts which are based upon a student's race, color, religion, national origin, physical or mental disability, or other classification protected by law;
- 5.4. Verbal, written, or graphic material containing comments or stereotypes aimed at degrading students or members of protected classes;
- 5.5. Aggressive conduct towards a student motivated by race, color, religion, national origin, physical or mental disability, or other classification protected by law;
- 5.6. Graffiti containing offensive or derogatory language, symbols, or pictures in the context any of the legally protected classifications;
- 5.7. Any unwelcome communication (whether written, verbal, or sent by electronic or other means) that is offensive or degrading and motivated by a student's race, color, religion, national origin, physical or mental disability, or other classification protected by law;

- 5.8. Jokes, notes, stories, drawings or pictures, gestures, or the display or distribution of offensive or degrading material based upon any of the legally protected classifications;
- 5.9. Displaying words, pictures, or symbols on clothing that are offensive or degrading based upon any of the legally protected classifications; or
- 5.10. Engaging in any of the foregoing types of discriminatory or harassing behavior outside of school or outside of school-related activities and events, but which materially disrupt the educational environment at school.

6. COMPLAINT PROCEDURE

Students who believe they have been subjected to Discrimination or Harassment, including students who believe that, due to a protected classification, they have been excluded from or denied the benefit of a program, offering, or facility, or that a school or District rule, policy, or practice has excluded or denied them a benefit, shall immediately file a complaint as described in this section. Complaints may also be filed by parents, employees, or others who have reason to believe one or more students have been subjected to Discrimination or Harassment. For purposes of this policy, the term “conduct” includes a school or District rule, policy, or practice.

6.1. Complaint Process

- 6.1.1. Students who believe they have been subjected to conduct constituting Discrimination or Harassment, as described above, are encouraged, but not required, to confront the respondent and tell him or her to stop the conduct because it is unwelcome.
- 6.1.2. The student should directly inform his or her school administrator of the conduct using the process outlined below.
 - 6.1.2.1. The student should document the respondent’s conduct using the District’s [Complaint Form](#) and deliver it to his or her administrator. If the student is not able to complete the Complaint Form, he or she may notify the administrator verbally, and the administrator may complete the Complaint Form based on the verbal report. Alternate methods of filing complaints shall be made available to younger students or students with disabilities who need accommodation.
 - 6.1.2.2. If the respondent is the student’s administrator, or if the student feels he or she cannot report the conduct to the administrator, the student shall report the conduct to the Civil Rights Coordinator, Student Success Coordinator, or Human Resource Officer at the address and phone number listed in Section 1 of this policy.
- 6.1.3. A teacher, counselor, or administrator who receives a Complaint Form shall promptly deliver it to the student’s Building Administrator, who is trained and designated to investigate complaints made under this policy. Once a Complaint Form is received by the Building Administrator or the Civil Rights Coordinator, an investigation will begin as described in Section 8 of this policy.

6.2. Substance of Complaint

Complaints of Discrimination and Harassment, whether made verbally, using the [Complaint Form](#), or in some other way, must include the following information:

- 6.2.1. Name, home address, email address, and telephone number of the person making complaint;
- 6.2.2. Date(s) of incident(s) giving rise to the complaint;
- 6.2.3. Name(s) of respondent(s);

- 6.2.4. Description of the conduct or incident(s) giving rise to the complaint;
- 6.2.5. Description of the harm caused by the incident; and
- 6.2.6. Description of the remedy sought. Providing a description of the remedy sought does not confer authority on the complainant or the complainant's parent to determine the discipline imposed on the respondent. The imposition of remedies, including any disciplinary action, lies only within the authority and sole discretion of the District and may not be divested to others.

7. EMPLOYEE RESPONSIBILITY TO REPORT

- 7.1. A teacher, school counselor, or administrator who receives a completed Complaint Form shall, as soon as is reasonably possible, deliver it to the Building Administrator. If the Building Administrator is not available or is the subject of the complaint, the teacher or school counselor shall deliver the Complaint Form to the Civil Rights Coordinator, Student Success Coordinator, or Human Resource Officer.
- 7.2. Any school employee who observes or otherwise becomes aware of conduct that may constitute Discrimination or Harassment involving a student shall report the conduct to the Building Administrator whether the complainant files a complaint or not.

8. INVESTIGATION

- 8.1. The procedures outlined in this section are detailed and constitute the recommended best practice. Minor omissions and other procedural inconsistencies do not invalidate an otherwise equitable investigation. Investigators must be flexible and adapt to the circumstances of each complaint.
- 8.2. Throughout the investigation the investigator shall monitor whether ongoing conduct or retaliation occurs in violation of this policy. If it does, the investigator shall ensure that prompt and appropriate action is taken and documented as part of the investigation.
- 8.3. If the complainant and the respondent agree, the investigator may arrange for them to resolve the complaint informally with the help of a counselor, school social worker, teacher, administrator, or trained mediator. The complainant shall never be asked to work out the problem directly with the respondent unless such help is provided and both parties agree.
- 8.4. Commencing an Investigation
 - 8.4.1. An investigation should begin when a Building Administrator becomes aware of an allegation of, or conduct that may constitute, Discrimination or Harassment against a student. Such conduct or allegation is typically made known by receipt of a Complaint Form, but it may also be made known through a variety of other means, including but not limited to verbal complaints by students or parents, notice from an employee, direct observation, or as facts are disclosed during normal disciplinary proceedings. When a Building Administrator becomes aware of conduct that may be in violation of this policy, he or she shall notify the Civil Rights Coordinator of the potential violation.
 - 8.4.2. The Civil Rights Coordinator shall notify and consult with the applicable Director of Secondary or Elementary Education and any other applicable administrator and determine whether to open an investigation.
 - 8.4.2.1. If the complaint alleges Discrimination or Harassment based on disability, notice and consultation should include the District Section 504 Coordinator or Director of Special Education, as applicable.
 - 8.4.2.2. If the complaint alleges facility access discrimination based on disability, notice and consultation should include the District Risk Manager.

8.4.2.3. If the respondent is an employee, volunteer, or other adult, notice and consultation should include the Director of Human Resources.

8.4.3. If the decision is to open an investigation, the Civil Rights Coordinator, Human Resource Officer, or their designee shall serve as the primary investigator. If they are not available, the Civil Rights Coordinator may select from among the following secondary investigators, as long as the individual selected has received training on how to conduct an investigation under this policy:

8.4.3.1. Human Resource coordinators;

8.4.3.2. School Services Coordinator;

8.4.3.3. Junior high/middle school supervisor;

8.4.3.4. Elementary education supervisor.

8.4.3.5. Department supervisor or other school administrator.

8.4.4. The investigator should begin each investigation by documenting the type of conduct using the [Student Civil Rights Harassment Checklist](#) (Checklist) and creating an investigation file. The investigator completes the Checklist as the investigation proceeds.

8.4.5. The investigator will determine whether supportive measures need to be taken such as separating the complainant from the respondent pending the outcome of the investigation. If necessary, the investigator will recommend or implement appropriate supportive measures to protect the complainant from continued Discrimination, Harassment, or Retaliation.

8.4.6. If the investigator begins an investigation before receiving a Complaint Form, he or she shall interview the complainant and obtain a completed and signed Complaint Form. If the age or ability of the complainant prevents him or her from completing and signing a Complaint Form, the investigator shall complete and sign the form.

8.4.7. The investigator shall refer the matter to law enforcement authorities or the Utah State Division of Child and Family Services, where appropriate or required by law. The investigator must continue to conduct the investigation even if the matter has been referred to another agency. The investigator should coordinate with the other agency and may adjust timelines and procedures accordingly.

8.5. Investigative Procedures

Both school-level and District-level investigations shall include the following steps. If an investigation is reassigned to a new investigator after it has begun, the new investigator shall gather all evidence and information from the previous investigator. The new investigator may, but is not required to, repeat interviews or other investigative procedures conducted by the previous investigator.

8.5.1. Interviews

8.5.1.1. Each of the following persons shall be interviewed, and a record made of their conversations.

8.5.1.1.1. The complainant. The complainant may be accompanied by an adult representative, including legal counsel. The complainant may present evidence supporting the complaint. If the complainant has not already completed the Complaint Form, the investigator shall complete it based on information gathered in the interview.

8.5.1.1.1. The investigator shall comply with the reporting requirements found in [Nebo School District Policy JHFA, Child Abuse or Neglect](#).

8.5.1.1.2. The person making the complaint, if different than the complainant.

8.5.1.1.3. The respondent. The respondent may be accompanied by an adult representative, including legal counsel. The respondent may present evidence refuting the allegations set forth in the complaint. The investigator should gather a signed, written statement from the accused responding to the complaint. The respondent may use the District's Student Civil Rights Harassment Response form.

8.5.1.1.4. Anyone who witnessed the alleged conduct. The investigator should gather a signed witness statement from each witness using the District's Student Civil Rights Harassment Witness Statement form.

8.5.1.1.5. Anyone mentioned as having related information. The investigator should document all conversations related to the alleged incident.

8.5.1.2. The investigator may have additional conversations with any of the individuals listed in Section 8.4.1.1 to ensure that all relevant facts have been gathered.

8.5.2. Preservation of Evidence

8.5.2.1. The investigator shall gather and preserve all evidence, including video footage from surveillance cameras, photos, physical evidence, documents, correspondence, and any relevant electronic information such as text messages, videos, and social media postings.

8.5.2.2. Evidence should be preserved in the investigative file.

8.5.3. Evaluation of Evidence

8.5.3.1. The investigator shall consider all the evidence, including the credibility of all statements, and determine which facts are true based on a preponderance of evidence. The determination should be outlined as findings of fact in the written Report and Decision described below. In determining findings of fact, the investigator should consider the following:

8.5.3.1.1. Credibility of statements made by the persons interviewed;

8.5.3.1.2. Corroborating evidence;

8.5.3.1.3. The details and consistency of each person's account;

8.5.3.1.4. Evidence of any past violations of this policy by the respondent;

8.5.3.1.5. Evidence of any false complaints; and

8.5.3.1.6. Any other relevant information.

8.5.3.2. The investigator applies the findings of fact to District policy and makes a conclusion as to whether any policy provision has been violated. The conclusions are outlined in the written Report and Decision.

8.5.4. Report and Decision

8.5.4.1. The investigator shall prepare a written report and decision of the investigation. The report should be completed using the District's Student Civil Rights Harassment Report and Decision form. The Civil Rights Coordinator shall maintain the report. If the respondent is an employee, volunteer, or other adult, a copy of the report shall be given to the Director of Human Resources. The report must include the following:

8.5.4.1.1. A description of the complaint.

8.5.4.1.2. A description of the response.

8.5.4.1.3. A list of specific sections of Nebo School District policies that are alleged to have been violated or that the alleged conduct, if true, would violate.

8.5.4.1.4. A detailed description of the investigation, including names and dates of individuals interviewed; receipt of written statements; and evidence considered, including video and audio recordings, correspondence, etc.

8.5.4.1.5. Findings of fact. This section should describe with sufficient detail the events and actions found by the investigator to be true. It should include relevant facts such as age, gender, race, or disability of complainants and respondents.

8.5.4.1.6. Conclusions, based on a preponderance of the evidence, as to whether Nebo School District policy was violated. If the investigator concludes that a policy violation has occurred, this section should state the specific policy section and which facts constitute a violation. This section should conclude whether each allegation is substantiated, unsubstantiated, or inconclusive.

8.5.4.1.7. Recommendations to address the effects on the complainant and school environment. Authorized administrators implement remedies and impose disciplinary action.

8.5.4.2. To judge the severity of any violation of this policy, the investigator should consider the following:

8.5.4.2.1. How the misconduct affected one or more students' education;

8.5.4.2.2. The type, frequency, and duration of the misconduct;

8.5.4.2.3. The number of persons involved;

8.5.4.2.4. The age and gender of the respondent;

8.5.4.2.5. The complainant(s) of Discrimination or Harassment;

8.5.4.2.6. The place and situation where the incident occurred;

8.5.4.2.7. Other incidents at the school or school-related activities and events, including incidents of Discrimination/Harassment; and

8.5.4.2.8. Any other pertinent information applicable to the particular situation.

- 8.5.5.** If the allegations are substantiated, the investigator shall ensure that the behavior and resulting disciplinary action is documented in the appropriate student or employee file, including in the Student Information System.

8.6. Notice to Parties

At the conclusion of the investigation, the investigator shall notify the complainant and the respondent of the outcome of the investigation. The notice shall be in writing and shall be sent to both parties at the same time in accordance with the following provisions:

- 8.6.1.** The complainant is entitled to know only such disciplinary action taken against the respondent that is directly related to the complainant.
- 8.6.2.** The respondent should not be notified of the steps taken to address the effects on the complainant.
- 8.6.3.** Both parties should be given a brief summary of the investigative steps, the findings of fact, and the conclusions.

8.7. Appeal of Decision.

Investigative procedures conducted under this policy may be appealed by both complainants and respondents. The purpose of an appeal under this section is to determine whether the investigative procedures outlined in this policy were followed. An appeal may also be filed to introduce new evidence not available during the investigation. If an appeal does not introduce new evidence or allege a violation of the investigative procedures of this policy, it will be denied. Disagreement with the outcome of an investigation or with an investigator's interpretation of the facts is not grounds for an appeal under this policy.

- 8.7.1.** Students who have been disciplined as a result of an investigation under this policy may appeal in accordance with [Nebo School District Policy JD, Student Conduct and Discipline](#). Students issued a long-term suspension are entitled to the hearings described in that policy. Any hearing is limited to determining whether the investigative procedures were followed or whether new evidence has become available. Students receiving discipline other than a long-term suspension may work with their Building Administrator to resolve disagreements.
- 8.7.2.** Employees who have been disciplined as a result of an investigation under this policy may appeal in accordance with the grievance procedures outlined in the applicable employee handbook.
- 8.7.3.** Complainants may appeal by giving written notice to the Superintendent within ten (10) calendar days of the date of the decision they are appealing. Failure to submit written notice of appeal to the Superintendent within ten (10) calendar days constitutes forfeiture of any right to appeal. The Superintendent or his/her designee will hear the appeal and issue a written decision as to whether the investigative procedures of this policy were followed or whether new evidence would change the outcome of the investigation. The decision of the Superintendent or his/her designee is final.

9. SEX-BASED DESIGNATIONS

- 9.1.** Notwithstanding anything to the contrary in this policy, students may only access operational sex-designated privacy spaces designated for student use if the student's sex corresponds with the sex designation of the privacy space. This restriction does not apply to intersex students.
- 9.2.** If a student requests use of a privacy space other than the sex-designated privacy space that corresponds with the student's sex, because of the student's gender identity or because of reasonable fear of bullying, the District shall coordinate with the student's parent to develop a privacy plan that provides the student with reasonable access to a unisex or single-occupant

facility or reasonable access to a faculty or staff restroom. If such access is unavailable, the student shall be provided with reasonable access to private use of an otherwise sex-designated privacy space through staggered scheduling or other arrangement providing temporary private access.

- 9.3. The District shall designate each of its school athletic activities and teams as designated for male students, designated for female students, or coed or mixed. In making the designation for activities and teams which are interscholastic activities governed by the Utah High School Activities Association ("UHSAA"), the school shall consider the listing of girls teams, boys teams, and mixed teams established by the Association.
- 9.4. A male student is not entitled to and may not access, use or benefit from a school or District athletic facility, program, or event which is designated for females. A female student is not entitled to and may not access, use, or benefit from a school or District athletic facility, program, or event which is designated for males.
- 9.5. Students shall be given notice of the requirements of this policy and each school shall take administrative action to address violations and promote compliance with this policy.

10. CONFIDENTIALITY

- 10.1. It is District policy to respect, as far as possible, the privacy and anonymity of all parties and witnesses to complaints brought under this policy. However, because an individual's right to confidentiality must be balanced with the District's obligations to cooperate with law enforcement, government agency investigations, or legal proceedings, or to investigate and take necessary action to resolve a complaint, the District retains the right to disclose the identity of parties and witnesses to complaints in appropriate circumstances, and for other good reasons that apply to the particular situation. The investigator also may discuss the complaint with one or more of the following persons:
 - 10.1.1. The Superintendent, Director of Human Resources, Coordinator of Student Services, Civil Rights Coordinator, Director of Elementary Education, Director of Secondary Education, Director of Special Education / Federal Programs, Director of Operations, District Legal Counsel, or other applicable school or District administrator;
 - 10.1.2. The parent/legal guardian of the complainant;
 - 10.1.3. The parent/legal guardian of the respondent;
 - 10.1.4. A teacher or staff member whose knowledge of the students involved may help in determining who is telling the truth;
 - 10.1.5. Utah State Division of Child and Family Services for purposes of investigating child abuse reports; and
 - 10.1.6. Law enforcement agencies where the investigator has reasonable suspicion that the alleged Discrimination or Harassment involves criminal activity.
- 10.2. Where a complaint involves allegations of child abuse, the complaint shall be immediately reported to appropriate law enforcement authorities or the Utah State Division of Child and Family Services. The anonymity of both the complainant and school officials involved in the investigation will be strictly protected as required by [UTAH CODE ANN. § 62A-4a-412](#).

11. RETALIATION PROHIBITED

Retaliation against any person who has filed a complaint, or has testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this policy is prohibited, and therefore, subject to disciplinary action. Retaliation may include, but is not limited to, continued Harassment, threats, taunting, spreading rumors, unauthorized disclosure of the details of an investigation, ostracism, assault, destruction of property, or other negative conduct toward participants in response

to an investigation and the events causing it. Anyone found to have engaged in retaliation will be subject to disciplinary action. Participants in an investigation, including complainants, respondents, and witnesses, must report to the investigator any conduct that might reasonably constitute retaliation.

12. DISCIPLINE AND REMEDIAL ACTION

- 12.1.** Any student who engages in Discrimination and Harassment of anyone at school or at any school-related activity or event is in violation of this policy and shall be subject to disciplinary action consistent with [Nebo School District Policy JD, Student Conduct and Discipline. Disciplinary](#) action may include, but is not limited to, suspension, expulsion, exclusion or loss of extracurricular activities, probation, or alternate educational placement. In imposing such discipline, all facts and circumstances of the incident(s) shall be taken into account.
- 12.2.** Any employee who engages in Discrimination and Harassment of any student at school or at a school-related activity or event is in violation of this policy and shall be subject to disciplinary action consistent with [Nebo School District Policy GCPD, Employee Discipline, Administrative Leave, and Orderly Termination](#). Disciplinary action may include, but is not limited to, warnings, reprimands, probation, disciplinary transfer, suspension, reduction in pay or hours, or termination. In imposing such discipline, all facts and circumstances of the incidents(s) shall be taken into account.
- 12.3.** If the investigation reveals evidence of potential criminal activity, the District shall notify appropriate law enforcement authorities and may initiate proceedings to remove the accused party from the situation.
- 12.4.** If an investigation finds evidence of Discrimination and Harassment, the District shall implement remedial action necessary to eliminate its effects upon the complainant and the school environment. Remedial action may include changes to school or District programs, offerings, facilities, rules, policies, or practices.

13. ENFORCEMENT

District and school administrators shall take appropriate actions to enforce this policy. As needed, these actions may include, but are not limited to, any of the following:

- 13.1.** Removing vulgar or offending graffiti;
- 13.2.** Providing staff in-service and student instruction or counseling;
- 13.3.** Notifying parents/legal guardians of this policy;
- 13.4.** Notifying the Utah State Division of Child and Family Services or law enforcement authorities; and
- 13.5.** Taking appropriate disciplinary action.

14. FALSE COMPLAINTS

False, malicious, or frivolous complaints of Discrimination or Harassment shall result in corrective or disciplinary action taken against the complainant.

15. RECORD KEEPING

- 15.1.** An employee who conducts an investigation under this policy shall maintain a confidential record separate from the student's educational file that includes the complaint, response, witness statements, evidence, and reports.
- 15.2.** All student discipline issued for violations of this policy shall be documented by the Building Administrator on the District's Student Information System ("SIS"). Consistent with the U.S.

Department of Education Civil Rights Data Collection, the documentation must indicate the protected classification (religion; race, color, or national origin; or disability) that served as the basis for the Harassment for which the student was disciplined.

- 15.3. All complaints made under this policy must be documented by the Building Administrator on the District's Student Information System ("SIS"). Complaints must be documented even if the investigation results in a finding that this policy was not violated. Consistent with the U.S. Department of Education Civil Rights Data Collection, the documentation must indicate the protected classification (religion; race, color, or national origin; or disability) that served as the basis for the allegation of Discrimination and Harassment.
- 15.4. All complaints and allegations of Discrimination and Harassment shall be kept confidential except as necessary to carry out the investigation or take other subsequent necessary action.
- 15.5. Records of site-level and District-level complaints and investigations shall be retained in accordance with applicable federal and state law.

16. TRAINING

Nebo School District recognizes the importance of educating its employees and students 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 and students of the District.

17. DISSEMINATION OF POLICY

This policy may be posted on the District's website and published in student registration materials, student and employee handbooks, parent information guides, and other appropriate school publications as directed by the District. The following nondiscrimination notice shall be disseminated.

Notice of Nondiscrimination: It is the policy of Nebo School District not to discriminate on the basis of race, color, national origin, sex, sexual orientation, gender identity, religion, disability, age, or any other legally protected classification in its educational programs, activities, admissions, access, treatment, or employment practices. Nebo School District provides equal access to the Boy Scouts and other designated youth groups.

Questions, concerns, complaints, and requests regarding this nondiscrimination policy should be directed to the following Individuals:

Civil Rights Coordinator: Student and employee issues regarding discrimination, harassment, and sexual harassment in District programs, activities, events, and services. The Civil Rights Coordinator serves as the District Title IX Coordinator, Section 504 Coordinator, Title IV Coordinator, Title VI Coordinator, and Title VII Coordinator. [[Section 504 of the Rehabilitation Act of 1973; Titles IV, VI, and VII of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; Americans with Disabilities Act \(ADA\)](#)]

Risk Manager: Physical barriers to building access and physical barriers to educational programs, activities, events, and services. [[Americans with Disabilities Act \(ADA\)](#)]

Director of Human Resources: Employee accommodation requests due to physical or mental impairments. [[Americans with Disabilities Act \(ADA\)](#)]

The Civil Rights Coordinator, Risk Manager, and Director of Human Resources may be reached at Nebo School District Administrative Offices, 350 South Main, Spanish Fork, UT 84660; Telephone No. 801-354-7400.

Additionally, concerns may be directed to the U.S. Department of Education, Office for Civil Rights, 1244 Speer Boulevard, Suite 310, Denver, CO 80204-3582; Telephone No. 303-844-5695; Fax No. 303-844-4303; TDD No. 877-521-2172.

EXHIBITS

Nebo School District Student Discrimination and Harassment Complaint Procedures Flowchart (v2018-10)

REFERENCES

[Title VI of the Civil Rights Act of 1964, 42 U.S.C. §2000d](#)
[Title IX of the Education Amendments of 1972, 20 U.S.C. §1681\(a\)](#)
[Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §794\(a\)](#)
[Americans with Disabilities Act, 42 U.S.C. 12101 et seq.](#)
[Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq.](#)
[UTAH CODE ANN. § 26B-8-101](#)
[UTAH CODE ANN. § 62A-4a-412.](#)
[UTAH CODE ANN. § 63G-31-101](#)
[Nebo School District Policy GBEB, *Employee Discrimination and Harassment*](#)
[Nebo School District Policy GBEF, *Employee/Student Standards of Conduct*](#)
[Nebo School District Policy CH, *Websites and Social Media*](#)
[Nebo School District Policy GCPD, *Employee Discipline, Administrative Leave, and Orderly Termination*](#)
[Nebo School District Policy JD, *Student Conduct and Discipline*](#)
[Nebo School District Policy JDCB/GBEBB, *Student Sexual Harassment*](#)
[Nebo School District Policy JDD/GBEA, *Prohibition of Bullying, Hazing, and Retaliation*](#)
[Nebo School District Policy JDG, *Student Dress and Grooming*](#)
[Nebo School District Policy JHFA, *Child Abuse or Neglect*](#)
[Nebo School District Policy JR, *Section 504 of the Rehabilitation Act of 1973*](#)

FORMS

[Student Civil Rights Harassment Investigator Checklist \(v2024-01\)](#)
[Complaint \(v2023-05\)](#)
[Response \(v2023-05\)](#)
[Witness Statement \(v20235-05\)](#)
Investigation Classification Form (v2023-05)
[Report and Decision \(v2024-10\)](#)
[Privacy Plan \(v2024-10\)](#)

HISTORY

Revised: 9 October 2024 – added definitions and section on sex-based designations per HB257 (2024); added human resource officer; made technical changes.

Revised: 13 April 2022 – revised investigation procedures; updated names of forms; made technical changes.

Revised: 8 July 2020 – removed reference to sexual harassment under new Title IX regulations and created new policy JDCB/GBEBB; moved some responsibilities from Coordinator of Student Services to Civil Rights Coordinator; made technical changes.

Revised: 12 December 2018 – added prohibition against, and remedy for, system-wide discrimination.

Revised: 11 July 2018 – clarified investigative procedures; added clarification that minor procedural violations don't invalidate an investigation; added provision allowing involvement of professionals interviewing students in cases of abuse; updated notice of non-discrimination; made technical changes.

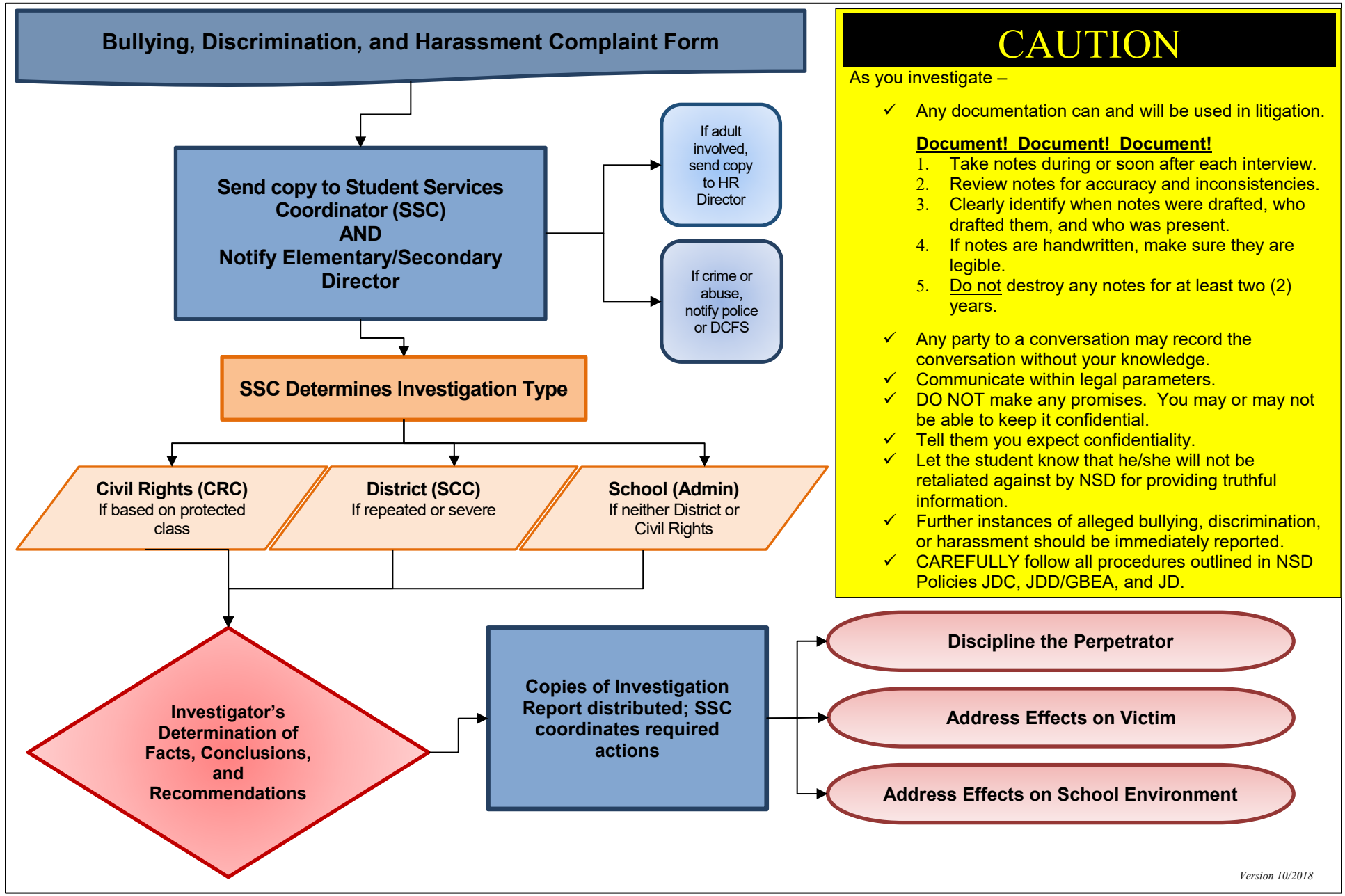
Revised: 8 July 2015 – appointed coordinator of student services as student civil rights coordinator; described civil rights laws; added scope; defined building administrator; added exposure of body parts as prohibited conduct; made reference to employee policies; revised and reorganized complaint, reporting, and investigation process; clarified prohibition on retaliation; strengthened evidence preservation and recordkeeping provisions; added notice of non-discrimination to section on dissemination of policy; made technical changes.

Revised: 13 August 2014 – capitalized defined terms; separated sexual harassment into its own section; revised and rearranged complaint and investigation procedures; made technical changes.

Reformatted: 9 July 2008 – no substantive changes.

Adopted or Revised: 14 September 2005.

NEBO SCHOOL DISTRICT
BULLYING, DISCRIMINATION, AND HARASSMENT INVESTIGATION FLOWCHART
STUDENT VICTIMS



CAUTION

As you investigate –

- ✓ Any documentation can and will be used in litigation.

Document! Document! Document!

1. Take notes during or soon after each interview.
2. Review notes for accuracy and inconsistencies.
3. Clearly identify when notes were drafted, who drafted them, and who was present.
4. If notes are handwritten, make sure they are legible.
5. Do not destroy any notes for at least two (2) years.

- ✓ Any party to a conversation may record the conversation without your knowledge.
- ✓ Communicate within legal parameters.
- ✓ DO NOT make any promises. You may or may not be able to keep it confidential.
- ✓ Tell them you expect confidentiality.
- ✓ Let the student know that he/she will not be retaliated against by NSD for providing truthful information.
- ✓ Further instances of alleged bullying, discrimination, or harassment should be immediately reported.
- ✓ CAREFULLY follow all procedures outlined in NSD Policies JDC, JDD/GBEA, and JD.