

Provo City School District

Policy Series 3000: Students



3214 P2

Non-Discrimination: Race, Color, and National Origin

Section 1 - Definitions

Complainant: An individual or group of individuals making a complaint.

Compliance Officer(s): The person(s) designated to handle inquires and complaints regarding unlawful discrimination, harassment, and retaliation, as may be updated by the District from time to time:

For Student Matters

Doug Finch

Assistant Superintendent of Student Services

280 West 940 North

Provo, Utah 84604

801-374-4631

douglasf@provo.edu

For Employee/Volunteer Matters

Jason Cox

Assistant Superintendent of Human Resources

280 West 940 North

Provo, Utah 84604

801-374-4822

jasonc@provo.edu

Complaint: A claim by an aggrieved party or a witness that an individual has engaged in unlawful discrimination, harassment, and/or retaliation.

Discrimination: Conduct including words, gestures, and/or other actions, including actions relating to a student's educational program, or in the employment context, hiring, promotion, discharge, discipline, assignments, demotion, or termination, that unfairly disadvantages individuals based upon protected characteristics such as age, color, disability, national origin, race, religion, sex/gender (including sexual orientation and gender identity), and/or any other classification protected by applicable law.

Race/Color/National Origin: Applicable law prohibits discrimination on the basis of race, color, and national origin, some of which may overlap.

A. In general, the prohibition on race discrimination may encompass discrimination on the following grounds:

1. racial or ethnic ancestry;
2. physical characteristics associated with race, such as a person's color, hair, facial features, height, and weight;
3. race-linked illnesses such as sickle cell anemia;
4. cultural characteristics linked to race or ethnicity such as a person's name, cultural dress and grooming practices, or accent or manner of speech;
5. the perception that a person is a member of a particular racial group, regardless of how the individual self-identifies; and/or

6. discrimination on the basis of association, such as being married to a person of a particular race or having a multi-racial child.
- B. In general, the prohibition of discrimination on the basis of color includes pigmentation, complexion, or skin tone. Color-based discrimination often overlaps with race-based discrimination.
- C. National origin discrimination means discrimination based on the place of origin of an individual or his/her ancestors, or because an individual has the physical, cultural, or linguistic characteristics of a national origin group. The place is usually a country or former country, but may also be associated with a group of people who share a common language, culture, ancestry, or other similar social characteristics. National origin and race often overlap.

Reprisal: Acts of reprisal may be overt or covert and may take many forms such as:

- A. open hostility to the individual, witnesses or others involved;
- B. exclusion/ostracism of the individual, witnesses, or others involved;
- C. the creation or continued existence of a hostile work environment;
- D. individualized negative remarks that are repeated and malicious; or
- E. special attention to, assignment of alternative duties that are less desirable work assignments, or reductions in pay.

Respondent: The individual named in a complaint as having engaged in or being responsible for a discriminatory, harassing, or retaliatory act or omission.

Retaliation: Any form of sanction or adverse treatment, including but not limited to intimidation, reprisal, or harassment of any individual because he or she:

- A. has asserted, or assisted another individual to assert, a complaint in either a formal or informal manner with the District or with any state or federal agency; or
- B. has testified, assisted, or participated in any manner in an investigation, proceeding, or hearing related to a complaint.

Section 2 – Prohibited Conduct

Provo City School District is dedicated to creating an environment for students, staff, and patrons that rejects all forms of discrimination based on race, color, and/or national origin. No student, employee, parent, or community member should experience these types of prohibited discrimination within the learning or working environment of our schools.

The District prohibits unlawful discrimination based on race, color, and/or national origin including harassment and retaliation that creates a hostile work or learning environment for other employees or students of the District. Discrimination, harassment, and retaliation are prohibited in all aspects of employment with the District, and by all District students and employees while on all District premises, during District-sponsored activities, using District property.

All employees contribute to the eradication of discrimination by promoting acceptance of our racial, cultural, ethnic, linguistic, and religious diversity, challenging attitudes of prejudice, and ensuring that appropriate steps are taken to prevent, remediate, and sanction discriminatory

conduct. Principals are responsible for examining school practices and procedures to ensure they do not result in prohibited discrimination.

Any student who engages in discrimination based on race, color, or national origin may be subject to discipline pursuant to the District's student discipline policies. Any employee who engages in such behavior may be subject to discipline up to and including termination pursuant to the District's employment policies.

Section 3 – Complaint Procedures

Duty to Report a Violation: We strongly encourage every student and employee to report any violations of this policy to the appropriate official, as set forth herein.

How to Report a Violation

- A. Violations within a school
 - 1. Student violations
 - a) Any complaint involving a student's violation of this policy shall be reported to that student's school principal.
 - b) Any employee who receives a complaint of a violation of this policy shall inform the Complainant of the employee's obligation to report the complaint to principal, and then the employee shall immediately notify the principal.
 - c) Pursuant to state law, when a complaint involves allegations of child abuse, the complaint must immediately be reported to either the Division of Child and Family Services (DCFS) or local law enforcement.
 - 2. Employee violations
 - a) Any complaint involving an employee's violation of this policy shall be reported to that employee's building principal.
 - b) Any employee who receives a complaint of a violation of this policy shall inform the complainant of the employee's obligation to report the complaint to principal, and then the employee shall immediately notify the principal.
 - c) Pursuant to state law, when a complaint involves allegations of child abuse, the complaint must immediately be reported to either the Division of Child and Family Services (DCFS) or local law enforcement.
 - 3. Allegations against the principal
 - a) If the complaint involves alleged violations of the policy by the principal, the Complainant may contact the District's Human Resources Department ("HR") at 801-374-4938, 280 West 940 North, Provo, Utah 84604.
- B. Violations by other employees
 - 1. Any complaint involving a violation of this policy against an employee who is not based at a school should be reported to that employee's supervisor or to HR.
 - 2. When the complaint involves the Complainant's immediate supervisor, the Complainant should report the violation to that individual's supervisor or to HR.

- C. Violations by third parties.
 - 1. Any complaint involving a third party, such as a vendor, visiting speaker, patron, volunteer, etc., should be reported to the building principal or to HR.

Investigation

- A. District Personnel Duties
 - 1. When a principal or supervisor receives a complaint about employee violations against another employee, the principal or supervisor must immediately notify HR. HR will be responsible for investigating the complaint.
 - 2. When a principal or supervisor receives a complaint about employee violations against a student, the principal or supervisor must immediately notify HR and the Compliance Officer responsible for student matters.
 - 3. When a principal receives a complaint about student violations against an employee or student, the principal must conduct an investigation and notify the Compliance Officer responsible for complaints about students. The principal must also notify the parent(s)/guardian(s) as soon as possible.
 - 4. When a principal receives a complaint about a third party, the principal must immediately notify HR.
 - 5. Complaints alleging possible criminal conduct shall be forwarded to local law enforcement for such further action as may be appropriate in the judgment of law enforcement; referral for criminal investigation shall not preclude the District from conducting its own investigation.
 - 6. Failure to notify as indicated above may result in disciplinary action.
- B. The District will investigate all reports of violations of this policy and will take steps to stop violations, prevent the recurrence of violations, and remedy the effects of violations, as appropriate. The District may take steps to protect the Complainant and other individuals assisting in the investigation. As part of the investigation, the District may interview the Complainant, Respondent, and other individuals who may have knowledge of the allegations. The District may also review documents and social media posts relevant to the allegations.
- C. Efforts will be made to protect the confidentiality of all participants in complaint proceedings and investigations to the greatest extent possible; however, absolute confidentiality cannot be guaranteed. In some instances the District's legal obligations, including the need to investigate allegations and take appropriate corrective action will require the disclosure of certain information.
- D. All individuals involved in making a complaint or participating in an investigation shall refrain from discussing the matter, except with those who have a legitimate business or educational need to know.
- E. If the District finds that this policy has been violated, the District will take appropriate action based upon the results of the investigation, including suspension and termination if necessary, consistent with other District policies and contractual agreements regarding the imposition of student and employee discipline. The District will notify the Complainant whether corrective or remedial action will be taken. However, the District will only release information regarding specific disciplinary or remedial action against an employee or student in accordance with applicable law.

- F. In the event the Complainant is not satisfied with the outcome of the investigation and resolution, grievances may be filed using the procedures set forth in Policy 3214 P-1.

Section 3 - Responsibility for Dissemination of Procedure

- A. Principals and supervisors shall take appropriate actions to reinforce this policy and these procedures by:
 - 1. Providing training during annual employee in-service and obtaining proof of employee attendance;
 - 2. Summarizing this policy in employee handbooks;
 - 3. Training new employees about this policy and procedures at an employee orientation;
 - 4. Ensuring that by October 1 of each year, every student receives an age-appropriate explanation of the policy and is given the opportunity to discuss the policy in a classroom setting; and
 - 5. Notifying parents and guardians of this policy by October 1 of each year, either by including it in the student handbook or by sending a notice to students' homes.
- B. A summary of these procedures and related materials shall be posted in a prominent place in each District facility and on the District's website.

Section 4 – Records

- A. Records of discrimination or harassment complaints shall be maintained by the compliance officer, or his or her designee.
- B. Student records are governed by the Family Educational Rights and Privacy Act (FERPA).
- C. Employee records are governed by the Governmental Records and Access Management Act (“GRAMA”).
- D. If the Complainant is an employee, no record of the complaint shall be kept in the Complainant's personnel file.
- E. If, after investigation, the allegation(s) are unsubstantiated, no record will be placed in the Respondent's personnel file.
- F. Records of complaints shall be retained in accordance with applicable law.

Section 5 – State and Federal Review

A person may always seek review of any alleged discrimination through appropriate State and Federal agencies. This can occur whether or not the person has followed the above informal or formal procedures. This may be done through the federal Office for Civil Rights (OCR) for education related violations or UALD (Utah Anti-discrimination Labor Division) or EEOC (Equal Employment Opportunity Commission) for employment related violations.

- A. Persons alleging educational program discrimination or other related violation of civil rights may file a complaint with the Office for Civil Rights (OCR) at the following address:

Office for Civil Rights
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202-1100
1-800-421-3481
FAX: (202) 245-6840; TDD: (877) 521-2172
Email: OCR@ed.gov
Web: <http://www.ed.gov/ocr/>

- B. Persons alleging employment practices discrimination or other labor related violation of civil rights may file a complaint with the Utah Antidiscrimination Labor Division (UALD). Individuals must file their charge of employment discrimination with UALD within 180 days of the alleged discriminatory act. If more than 180 days have passed since the last date of harm, but less than 300 days, the charge must be sent to the Equal Employment Opportunity Commission (EEOC) for its consideration.

Utah Antidiscrimination & Labor Division
Office hours: 8:00 a.m. – 5:00 p.m., Monday through Friday
Call toll free in state at 1-800-222-1238,
Or TDD 801-530-7685

Equal Employment Opportunity Commission Denver Office
303 E. 17th Avenue, Suite 510
Denver, Colorado 80203
The Denver District Office is open Monday – Friday
8:00 a.m. – 5:00 p.m.
Phone: 303-866-1300/1301 or 1-800-669-4000
FAX: 303-866-1085
TTY: 303-866-1950 or 1-800-669-6820

- C. All questions related to discrimination, harassment, and retaliation should be directed to the applicable Compliance Officers, who serve as a resource to provide information, counseling, training, and advice regarding discrimination, harassment, and retaliation.

Adopted: January 25, 2016