

Book	Policy Manual
Section	POLICIES FOR THE BOARD, AUGUST 2022
Title	Copy of NONDISCRIMINATION AND ACCESS TO EQUAL EDUCATIONAL OPPORTUNITY
Code	po2260
Status	
Adopted	February 26, 2006
Last Revised	August 21, 2018

## 2260 - NONDISCRIMINATION AND ACCESS TO EQUAL EDUCATIONAL OPPORTUNITY

Any form of discrimination or harassment can be devastating to an individual's academic progress, social relationship, and/or personal sense of self worth.

As such, the School Board of ~~School-Trustees of the South Gibson School Corporation~~ does not discriminate on the basis of race, color, national origin, sex (including ~~transgender gender~~ status, sexual orientation ~~and or~~ gender identity), disability, age ~~(except as authorized by law)~~, religion, military status, ancestry, or genetic information ~~which are classes protected by Federal and/or State law~~ (collectively, "Protected Classes") ~~occurring in the Corporation's its educational opportunities, programs, and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's educational opportunities, programs, and activities, affecting the Corporation environment.~~

The Board also does not discriminate on the basis of Protected Classes in its employment policies and practices as they relate to students, and does not tolerate harassment of any kind.

The Corporation will identify, evaluate, and provide a free appropriate public education to students with disabilities who are determined eligible for special education and related services under the Individuals with Disabilities Education Act (IDEA) or Section 504 of the Rehabilitation Act of 1973 (Section 504).

Equal educational opportunities shall be available to all students, without regard to the Protected Classes, including age (unless age is a factor necessary to the normal operation or the achievement of any legitimate objective of the program/activity), place of residence within the boundaries of the Corporation, or social or economic background, to learn through the curriculum offered in this Corporation. Educational programs shall be designed to meet the varying needs of all students.

The Corporation's educational programs include the academic and nonacademic setting. Each qualified student with a disability shall be educated with students without disabilities to the maximum extent appropriate. In the nonacademic setting, a student with a disability shall participate with students without disabilities to the maximum extent appropriate.

Notice of the Board's policy on nondiscrimination and the identity of the Corporation's Compliance Officer(s) (see below) will be published on the Corporation's website, posted throughout the Corporation, and included in the Corporation's recruitment statements or general information publications.

### Principal's Responsibilities

Each Principal shall verify that the procedures used with students and parents for selection of and participation in any part of the Corporation's academic, co-curricular, or extra-curricular programs do not discriminate on the basis of the Protected Classes.

### Superintendent's Responsibilities

~~Educational programs shall be designed to meet the varying needs of all students. In order to achieve the aforesaid goal, the Superintendent shall:~~

In order to achieve the aforesaid goal, the Superintendent shall:

#### A. Curriculum Content

review current and proposed courses of study and textbooks to detect any bias based upon the Protected Classes ascertaining whether or not supplemental materials, singly or taken as a whole, fairly depict the contribution of both genders, various races, ethnic groups, etc. toward the development of human society;

## **B. Staff Training**

develop an ongoing program of in-service training for school personnel designed to identify and solve problems of bias based upon the Protected Classes in all aspects of the program;

## **C. Student Access**

1. review current and proposed programs, activities, facilities, and practices to **ensure verify** that all students have equal access thereto and are not segregated on the basis of the Protected Classes in any duty, work, play, classroom, or school practice, except as may be permitted under State and Federal laws and regulations;
2. verify that facilities are made available, in accordance with Board Policy 7510 – Use of School Facilities, for non-curricular student activities that are initiated by parents or other members of the community, including but not limited to any group officially affiliated with the Boy Scouts of America or any other youth group listed in Title 36 of the United States Code as a patriotic society;
3. **verify that the educational programs of this Corporation are accessible to all students. All programs need to be designed and scheduled so the location or nature of the facility or area will not deny an otherwise qualified student with a disability the opportunity to participate in the academic or other school programs on the same basis as students without disabilities;**
4. **require that service animals for students who require this type of assistance shall be permitted access to all facilities, programs, and events of the Corporation.**

## **D. Corporation Support**

verify that like aspects of the Corporation program receive like support as to staff size and compensation, purchase and maintenance of facilities and equipment, access to such facilities and equipment, and related matters;

## **E. Student Evaluation**

verify that tests, procedures, **or and** guidance and counseling materials, which are designed to evaluate student progress, rate aptitudes, analyze personality, or in any manner establish or tend to establish a category by which a student may be judged, are not differentiated or stereotyped on the basis of the Protected Classes.

## **Definitions**

**Words used in this policy shall have those meanings defined herein; words not defined herein shall be construed according to their plain and ordinary meanings.**

~~The Superintendent shall appoint and publicize the name of the Compliance Officer(s) who is/are responsible for coordinating the Corporation's efforts to comply with applicable Federal and State laws and regulations, including the Corporation's duty to address in a prompt and equitable manner any inquiries or complaints regarding discrimination or denial of equal access. The Compliance Officer(s) also shall verify that proper notice of nondiscrimination for Title II of the Americans with Disabilities Act (as amended), Title VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and Section 504 of the Rehabilitation Act of 1973 (as amended), is provided to students, their parents, staff members, and the general public;~~

**Complainant is the individual who alleges or is alleged to have been subjected to unlawful discrimination/retaliation, regardless of whether the person files a formal complaint or is pursuing an informal resolution to the alleged discrimination/retaliation.**

**Respondent is the individual who is alleged to have engaged in unlawful discrimination/retaliation, regardless of whether the Reporting Party files a formal complaint or is seeking an informal resolution to the alleged discrimination/retaliation.**

**Corporation community means students, Corporation employees (i.e., administrators and professional and classified staff), and Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.**

**Third Parties include but are not limited to guests and/or visitors on Corporation property (e.g., visiting speakers, participants on opposing athletic teams, parents), vendors doing business with or seeking to do business with the**

Board, and other individuals who come in contact with members of the Corporation community at school-related events/activities (whether on or off Corporation property).

Day(s): Unless expressly stated otherwise, the term "day" or "days" as used in this policy means business day(s) (i.e., a day(s) that the Corporation office is open for normal operating hours, Monday – Friday, excluding State-recognized holidays).

"Military status" refers to a person's status in the uniformed services, which includes the performance of duty on a voluntary or involuntary basis in a uniformed service, including active duty, active duty for training, initial active duty for training, inactive duty for training, and full-time National Guard duty. It also includes the period of time for which a person is absent from school for the purpose of an examination to determine the fitness of the person to perform any duty listed above.

#### Corporation Compliance Officer

~~The following person is designated as the Corporation's Compliance Officer and, as such, shall handle inquiries regarding the nondiscrimination policies of the Corporation and address any complaint of discrimination:~~  
The Board designates the following individual to serve as the Corporation's "Compliance Officer" (also known as "Civil Rights Coordinators" (hereinafter referred to as the "CO")).

Tim Armstrong  
Assistant Superintendent  
~~1029 W 650 S 3321 W 800 S~~  
Fort Branch, IN 47648  
812-753-4230  
tim.armstrong@sgibson.k12.in.us

The name, title, and contact information of this individual will be published annually on the Corporation's website and on each individual school's website.

The CO is responsible for coordinating the Corporation's efforts to comply with applicable Federal and State laws and regulations, including the Corporation's duty to address in a prompt and equitable manner any inquiries or complaints regarding discrimination, retaliation, or denial of equal access. The CO also shall verify that proper notice of nondiscrimination for Title II of the Americans with Disabilities Act (as amended), Title VI and VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973 (as amended), and the Age Discrimination Act of 1975 is provided to students, their parents, staff members, and the general public. A copy of each of the Acts and regulations on which this notice is based may be found in the CO's office.

The Superintendent shall annually attempt to identify children with disabilities, ages 3-22, who reside in the Corporation but do not receive public education.

The Board is committed to educating (or providing for the education of) each qualified individual with a disability with individuals without disabilities to the maximum extent appropriate. Generally the Corporation will place an individual with a disability in the general education environment unless it is demonstrated that the education of the individual in the general education environment, even with supplementary aids and services, cannot be achieved satisfactorily. If the Board operates a separate class or facility that is identified as being provided for individuals with disabilities, the facility, program, and activities and services must be comparable to the facilities, programs, and activities and services offered to students without disabilities.

In addition, the Superintendent shall establish procedures to identify English Learner (EL) students, including immigrant children and youth, to assess their ability to participate in Corporation programs and develop and administer a program that meets the English language and academic needs of these students. This program shall include procedures for student placement, services, evaluation, and exit guidelines and shall be designed to provide students with effective instruction that leads to academic achievement and timely acquisition of proficiency in English. As a part of this program, the Corporation will evaluate the progress of students in achieving English language proficiency in the areas of listening, speaking, reading, and writing on an annual basis (see AG 2260F). The Superintendent is responsible for verifying that a concentration of EL students in one or more programs is not the result of discrimination.

#### Reports and Complaints of Unlawful Discrimination and Retaliation

~~Students are encouraged to promptly report incidents of unlawful discrimination and/or retaliation occurring in the Corporation's educational opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's educational opportunities, programs and activities, affecting the Corporation environment to an administrator, supervisor, or other Corporation-level official so that the Board may address the conduct. Any administrator, supervisor, or other Corporation-level official who receives such a complaint shall file it with a Compliance Officer within five (5) business days.~~

~~Students who believe they have been unlawfully discriminated/retaliated against in the Corporation's educational opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's educational opportunities, programs and activities, affecting the Corporation environment are entitled to utilize the complaint process set forth below. Initiating a complaint, whether formally or informally, in the Corporation and/or a concurrent criminal complaint will not adversely affect the complaining individual's educational status or opportunity. While there are no time limits for initiating complaints under this policy, individuals should make every effort to file a complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available.~~

~~The Compliance Officer will be available during regular school/work hours to discuss concerns related to unlawful discrimination/retaliation. The Compliance Officer(s) shall accept complaints of unlawful discrimination/retaliation directly from any member of the Corporation community or a visitor to the Corporation, and receive complaints that are initially filed with a school building administrator, supervisor or other Corporation-level official. Upon receipt of a complaint, either directly or through a school building administrator or other Corporation-level official, a Compliance Officer will begin either an informal or formal process (depending on the request of the person alleging the discrimination/retaliation or the nature of the alleged discrimination/retaliation), or designate a specific individual to conduct such a process.~~

~~The Compliance Officer will provide a copy of this policy to any person who files a complaint. In the case of a formal complaint, the Compliance Officer will prepare recommendations for the Superintendent or oversee the preparation of such recommendations by a designee. All members of the Corporation community must report incidents of discrimination/retaliation that are reported to them to the Compliance Officer within five (5) business days of learning of the incident/conduct.~~

Students and Corporation employees are required, and all other members of the Corporation community and Third Parties are encouraged, to promptly report incidents of unlawful discrimination and/or retaliation to an administrator, supervisor, or other Corporation official so that the Board may address the conduct. Any teacher, administrator, supervisor, or other Corporation employee or official who receives such a complaint shall file it with the CO within two (2) business days.[NOTE: while students are advised to report discrimination/retaliation to administrators, supervisors, or other Corporation officials, the Board recognizes that some students may report discrimination/retaliation to a teacher. When a teacher receives such a report, the teacher must file it with the CO as indicated above.]

Members of the Corporation community, which includes students or Third Parties, who believe they have been unlawfully discriminated/retaliated against are entitled to utilize the complaint process set forth below. Initiating a complaint, whether formally or informally, will not adversely affect the Complainant's employment or participation in educational or extra-curricular programs. While there are no time limits for initiating complaints under this policy, individuals should make every effort to file a complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available.

If during an investigation of alleged bullying, aggressive behavior and/or harassment in accordance with Policy 5517.01 - Bullying, the Principal believes that the reported misconduct may constitute unlawful discrimination based on a Protected Class, the Principal shall report the act to one of the COs, who shall investigate the allegation in accordance with this policy. While the CO investigates the allegation, the Principal shall suspend the Policy 5517.01 investigation to await the CO's written report. The CO shall keep the principal informed of the status of the Policy 2260 investigation and provide the Principal with a copy of the resulting written report.

The COs will be available during regular school/work hours to discuss concerns related to unlawful discrimination/retaliation. COs shall accept reports of unlawful discrimination/retaliation directly from any member of the Corporation community or a Third Party and reports that initially are made to another Corporation employee. Upon receipt of a report of alleged discrimination/retaliation, the CO will contact the Complainant and begin either an informal or formal complaint process (depending on the Complainant's request and the nature of the alleged discrimination/retaliation) or designate a specific individual to conduct such a process.

The CO will provide a copy of this policy to the Complainant and the Respondent. In the case of a formal complaint, the CO will prepare recommendations for the Superintendent or oversee the preparation of such recommendations by a designee. All members of the Corporation community must report incidents of discrimination/retaliation that are reported to them to the CO within two (2) business days of learning of the incident/conduct.

Any Corporation employee who directly observes unlawful discrimination/retaliation **of a student** is obligated, in accordance with this policy, to report such observations to one of the **Compliance Officers CO** within two (2) business days. Additionally, any Corporation employee who observes an act of unlawful discrimination/retaliation is expected to intervene to stop the misconduct, unless circumstances make such an intervention dangerous, in which case the staff member should immediately notify other Corporation employees and/or local law enforcement officials, as necessary, to stop the misconduct. Thereafter, the **Compliance Officer or CO**/designee must contact the **employee Complainant if age eighteen (18) or older the Complainant's parents/guardians if the student is under the age of eighteen (18)** within two (2) **business school** days to advise **him/her** of the **Corporation's Board's** intent to investigate the **alleged** wrongdoing.

Investigation and Complaint Procedures (see Form 2260 F2).



**Any Except for sex discrimination and/or Sexual Harassment that is covered by Policy 2266 - Nondiscrimination on the Basis of Sex in Education Programs and Activities, any** student who **believes that s/he has alleges to have** been subjected to unlawful discrimination or retaliation may seek resolution of **his/her the** complaint through the procedures described below. The formal complaint procedures involve an investigation of the individual's claims **of discrimination/retaliation** and a process for rendering a decision regarding whether the charges are substantiated **at the lowest possible administrative level and in a prompt and equitable manner**.

Due to the sensitivity surrounding complaints of unlawful discrimination or retaliation, timelines are flexible for initiating the complaint process; however, individuals **should make every effort are encouraged** to file a complaint within thirty (30) calendar days after the conduct occurs. Once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within fifteen (15) business days of the complaint being received).

**In accordance with Federal and State law, students will be notified of their right to file an internal complaint regarding an alleged violation, misinterpretation or misapplication of Federal and/or State law pertaining to discrimination in education.**

**In addition, students will be notified of their right to file a complaint with the U.S. Department of Education's Office for Civil Rights or the Indiana Civil Rights Commission, as well as a concurrent criminal complaint with the law enforcement agency having jurisdiction in the Corporation.**

**The procedures set forth below are not intended to interfere with the rights of a student to pursue a complaint of unlawful discrimination or retaliation with the United States Department of Education Office for Civil Rights ("OCR") or the Indiana Civil Rights Commission ("ICRC"). The Chicago Office of the OCR can be reached at John C. Kluczynski Federal Building, 230 S. Dearborn Street, 37th Floor Chicago, IL 60604; Telephone: 312-730-1560; FAX: 312-730-1576; TDD: 800-877-8339; Email: OCR.Chicago@ed.gov; Web: <http://www.ed.gov/ocr>.**

### **Informal Complaint Procedure**

The goal of the informal complaint procedure is to stop **quickly** inappropriate behavior **promptly** and facilitate resolution through **an** informal means, if possible. The informal complaint procedure is provided as a less formal option for a student who **believes s/he has been unlawfully discriminated or retaliated against in the Corporation's educational opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's educational opportunities, programs and activities, affecting the Corporation environment. alleges unlawful discrimination or retaliation.** This informal procedure is not required as a precursor to the filing of a formal complaint **or a concurrent criminal complaint.** **The informal process is available only when the Complainant and the Respondent mutually agree to participate in it.**

**The informal process is available only in those circumstances where the parties (the alleged target of the discrimination/retaliation and individual(s) alleged to have engaged in the discrimination) agree to participate in it.**

**Students who believe that they have been unlawfully discriminated/retaliated against in the Corporation's educational opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's educational opportunities, programs and activities, affecting the Corporation environment may proceed immediately to the formal complaint process and individuals who seek resolution through the informal procedure may request that the informal process be terminated at any time to move to the formal complaint process.**

**The Complainant may proceed immediately to the formal complaint process, and individuals who participate in the informal procedure may request that the informal process be terminated at any time to move to the formal complaint process.**

All complaints involving a Corporation employee or any other adult member of the Corporation community **against and** a student will be **investigated** formally **investigated, and a concurrent criminal complaint shall be filed.**

As an initial course of action, if **an individual a Complainant** feels **that s/he is being unlawfully discriminated/retaliated against in the Corporation's educational opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's educational opportunities, programs and activities, affecting the Corporation environment and s/he is able and feels comfortable and** safe doing so, the individual should tell or otherwise inform the **person who engaged in Respondent that** the allegedly discriminatory/retaliatory conduct that it is inappropriate and must stop. The **complaining individual Complainant** should address the alleged misconduct as soon after it occurs as possible. **A/The Compliance Officer The CO** is available to support and counsel **individuals the Complainant** when taking this initial step or to intervene on behalf of the individual if requested to do so. **A Complainant who is uncomfortable or unwilling to approach the Respondent directly about the inappropriate conduct may file an informal or formal complaint.**

**An individual who is uncomfortable or unwilling to inform the person who allegedly engaged in the unlawful conduct of his/her concerns is not prohibited from otherwise filing an informal or a formal complaint and filing a concurrent criminal complaint if s/he desires to do so.**

In addition, with regard to certain types of unlawful discrimination ~~(e.g., sex discrimination), such as sexual discrimination,~~ the **Compliance Officer CO** may advise against the use of the informal complaint process.

~~An individual who believes s/he has been unlawfully discriminated/retaliated against in the Corporation's educational opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's educational opportunities, programs and activities, affecting the Corporation environment~~ **A Complainant who alleges unlawful discrimination/retaliation** may make an informal complaint, either orally or in writing: ~~(1) to a building administrator in the school the student attends;~~ (2) directly to the **Compliance Officer(s) CO**; ~~and/or~~ (3) to the Superintendent or other Corporation-level employee.

All informal complaints must be reported to the **Compliance Officer(s) CO** who ~~will~~ either will facilitate an informal resolution as described below or appoint another individual to facilitate an informal resolution.

The Corporation's informal complaint procedure is designed to provide ~~students who believe they are being unlawfully discriminated/retaliated against~~ **the Complainant** with a range of options aimed at bringing about a prompt resolution of **their the Complainant's** concerns. Depending upon the nature of the complaint and the **Complainant's** wishes ~~of the individual claiming unlawful discrimination/retaliation,~~ informal resolution may involve, but is not ~~be~~-limited to, one or more of the following:

- A. Advising the **individual Complainant** about how to communicate ~~his/her~~ concerns to the ~~person who allegedly engaged in the discriminatory/retaliatory behavior.~~ **Respondent.**
- B. Distributing a copy of Policy 2260 - Nondiscrimination and Access to Equal Educational Opportunity ~~as a reminder~~ to the individuals in the school building or office where the ~~individual whose behavior is being questioned~~ **Respondent** works or attends school.
- C. If both parties agree, the **Compliance Officer CO** may arrange and facilitate a meeting or mediation between the ~~individual claiming discrimination/retaliation~~ **Complainant** and the ~~individual accused of engaging in the misconduct~~ **Respondent** to work out a mutual resolution.

While there are no set time limits within which an informal complaint must be resolved, the **Compliance Officer CO** or designee ~~will exercise his/her authority~~ is directed to attempt to resolve all informal complaints within thirty (30) business days of receiving the informal complaint.

~~Parties who are~~ If the Complainant is dissatisfied with the ~~results of the~~ informal complaint process, the Complainant may proceed to file a formal complaint. And, as stated above, ~~parties~~ either party may request that the informal process be terminated at any time to move to the formal complaint process.

~~The Compliance Officer will retain all materials that are generated as part of the informal complaint process in accordance with the Board's records retention policy. (See Policy 8310 or Policy 8330)~~

## Formal Complaint Procedure

If a complaint is not resolved through the informal complaint process, if one of the parties requested that the informal complaint process be terminated to move to the formal complaint process, ~~or if~~ the **individual Complainant** elects to file a formal complaint ~~initially, this from the outset, or the CO determines the allegations are not appropriate for resolution through the informal process,~~ the formal complaint process shall be implemented.

~~An individual who believes that s/he has been subjected to unlawful discrimination/retaliation in the Corporation's educational opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's educational opportunities, programs and activities, affecting the Corporation environment (hereinafter referred to as the "Complainant"),~~ **A Complainant** may file a formal complaint, either orally or in writing, with ~~an administrator, the Compliance Officer(s), a Principal, the CO, the~~ Superintendent, or other Corporation-level official, ~~as well as file a concurrent criminal complaint with the law enforcement agency having jurisdiction.~~

Due to the sensitivity surrounding complaints of unlawful discrimination ~~and retaliation,~~ timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a ~~complaint within thirty (30) calendar days after the conduct occurs.~~ formal complaint within thirty (30) calendar days after the conduct occurs while the facts are known and potential witnesses are available. If a Complainant informs a teacher, Principal, or other Corporation official at the student's school, Superintendent, or other Corporation employee, either orally or in writing, about any complaint of discrimination/retaliation, that employee must report such information to the CO within two (2) business days.

~~If a Complainant informs an administrator, Superintendent, or other Corporation-level official, either orally or in writing, about any complaint of discrimination/retaliation, the employee to whom the student complains must report such information to the Compliance Officer within five (5) business days.~~

Throughout the course of the process, the ~~Compliance Officer~~ CO should keep the parties reasonably informed of the status of the investigation and the decision-making process.

All formal complaints must include the following information to the extent it is available known: the identity of the ~~individual believed to have engaged in, or be engaging in, the discriminatory/retaliatory conduct~~ Respondent; a detailed description of the facts upon which the complaint is based (i.e., when, where, and what occurred); a list of potential witnesses; and the resolution sought by the Complainant.

If the Complainant is unwilling or unable to provide a written statement including the information set forth above, the ~~Compliance Officer~~ CO shall ask for such details in an oral interview. Thereafter, the ~~Compliance Officer~~ CO will prepare a written summary of the oral interview, and the Complainant will be asked to verify the accuracy of the reported ~~complaint~~ charge by signing the document.

Upon receiving a formal complaint, the ~~Compliance Officer~~ CO will consider whether any action should be taken in the investigatory phase to protect the Complainant from further discrimination or retaliation, including, but not limited to, a change of work assignment or schedule for the Complainant and/or the ~~person who allegedly engaged in the misconduct~~ Respondent. In making such a determination, the ~~Compliance Officer~~ CO should consult ~~with~~ the Complainant to assess ~~his/her agreement to whether the individual agrees with~~ the proposed action. If the Complainant is unwilling to consent to the proposed change, the ~~Compliance Officer~~ CO may still may take whatever actions ~~s/he deems~~ are deemed appropriate in consultation with the Superintendent.

Within five (5) business days of receiving the complaint, the ~~Compliance Officer,~~ CO or a designee, will initiate a formal investigation to determine whether the Complainant has been subjected to unlawful discrimination/retaliation. The Principal will not conduct an investigation unless directed to do so by the CO.

Simultaneously, the ~~Compliance Officer, or a designee,~~ CO will inform the ~~individual alleged to have engaged in the discriminatory or retaliatory conduct (hereinafter referred to as the "Respondent"),~~ Respondent that a formal complaint has been received. The Respondent will be informed about the nature of the allegations and provided with a copy of any relevant policies and/or administrative guidelines, including ~~this policy~~ Policy 2260 - Nondiscrimination and Access to Equal Educational Opportunity. The Respondent also must be informed of the opportunity to submit a written response to the formal complaint within five (5) business days.

Although certain cases may require additional time, the ~~Compliance Officer,~~ CO or a designee, will attempt to complete an investigation into the allegations of discrimination/retaliation within thirty (30) business days of receiving the formal complaint.

The investigation will include:

- A. ~~interview(s)~~ interviews with the Complainant;
- B. ~~interview(s)~~ interviews with the Respondent;
- C. interviews with any other witnesses who reasonably may be expected to have any information relevant to the allegations; and,
- D. consideration of any documentation or other information presented by the Complainant, Respondent, or any other witness that is reasonably believed to be relevant to the allegations.

At the conclusion of the investigation, the ~~Compliance Officer, or the~~ CO or designee, shall prepare and deliver a written report to the Superintendent that summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful discrimination/retaliation as provided in Board policy and State and Federal law as to whether the Respondent has engaged in unlawful harassment/retaliation of the Complainant ~~has been subjected to unlawful discrimination/retaliation~~. The CO's recommendations must be based upon the totality of the circumstances, including the ages and maturity levels of those involved. In determining if unlawful discrimination or retaliation occurred, a preponderance of evidence standard will be used ~~(i.e., it is more likely than not that unlawful discrimination/retaliation occurred)~~.

~~The Compliance Officer, or the designee, should~~ The CO may consult with the Board's legal counsel before finalizing the report to the Superintendent.

Absent extenuating circumstances, within five (5) business days of receiving the report of the ~~Compliance Officer or the~~ CO or designee, the Superintendent ~~must~~ either must issue a decision regarding whether the charges have been substantiated or request further investigation. A copy of the Superintendent's final decision will be delivered to both the Complainant and the Respondent.

If the Superintendent requests additional investigation, the Superintendent must delineate specify the additional information that is to be gathered, and such additional investigation must be completed within five (5) ~~business~~ days. At the conclusion of the

additional investigation, the Superintendent must issue a final written decision as described above.

If the Superintendent determines the ~~Complainant was subjected to~~ Respondent engaged in unlawful discrimination/retaliation against the Complainant, s/he the Superintendent must identify what corrective action will be taken to stop, remedy, and prevent the recurrence of the discrimination/retaliation. The corrective action should be reasonable, timely, age-appropriate, effective, and tailored to the specific situation.

A Complainant or Respondent who is dissatisfied with the final decision of the Superintendent may appeal through a signed written request statement to the Board within five (5) business days of his/her the party's receipt of the Superintendent's decision. The written statement of appeal must be submitted to the Board Attorney.

~~If the Superintendent is the Respondent, the appeal process will skip the review by the Superintendent and move directly to the Board. In such circumstances, the Compliance Officer, or the designee, shall prepare and deliver a written report to the Board that summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful discrimination/retaliation as provided in Board policy and State and Federal law as to whether the Complainant has been subjected to unlawful discrimination/retaliation.~~

The In an attempt to resolve the complaint, the Board shall meet with the concerned parties and their representatives within twenty (20) business days of the receipt of a written request to appeal such an appeal. ~~At this meeting, the parties have the right to present evidence, including testimony and/or exhibits, to the Board in support of their position.~~ A copy of the Board's disposition of the appeal shall be sent to each concerned party within ten (10) business days of this meeting. The decision of the Board will be final.

The Board reserves the right to investigate and resolve a complaint or report of unlawful discrimination/retaliation regardless of whether the ~~student alleging the unlawful discrimination/retaliation~~ Complainant pursues the complaint. The Board also reserves the right to have the formal complaint investigation conducted by an external person in accordance with this policy or in such other manner as deemed appropriate by the Board or its designee.

The Complainant and the Respondent parties may be represented, at his/her their own cost, at any of the above-described meetings/hearings interviews/meetings.

The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies, such as the filing of a complaint with the ~~Office for Civil Rights or the Indiana Civil Rights Commission; OCR or the ICRC, the filing of charges with local law enforcement,~~ or the filing of a concurrent criminal complaint civil action in court. Use of ~~the complaint procedures this internal complaint process~~ is not a prerequisite to the pursuit of other remedies. ~~Furthermore, the complaint must be investigated even if a separate investigation is being conducted by another agency, including but not limited to the local police department.~~

### **Privacy/Confidentiality**

The Corporation will employ all reasonable efforts to protect the rights of the Complainant, the Respondent(s), and the witnesses ~~to the extent as much as~~ possible, consistent with the Corporation's legal obligations to investigate, take appropriate action, and comply with any discovery or disclosure obligations.

All records generated under the terms of this policy shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed. Additionally, the Respondent must be provided the Complainant's identity.

~~All Complainants proceeding through the formal investigation process will be advised that their identities may be disclosed to the Respondent(s).~~

During the course of a formal investigation, the ~~Compliance Officer CO~~ or designee will instruct each person who is interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of an investigation is expected not to disclose to third parties any information that ~~s/he learns and/or provides~~ is learned or provided during the course of the investigation.

### **Remedial Action and Monitoring**

If warranted, appropriate remedial action shall be determined and implemented on behalf of the Complainant, including but not limited to counseling services, reinstatement of leave taken because of the discrimination, the opportunity to complete assignments missed due to absences related to the discrimination, or other appropriate action.

The Board may appoint an individual, who may be a Corporation employee, to follow up with the Complainant to ensure no further discrimination or retaliation has occurred and to take action to address any



reported occurrences promptly.

### **Remediation**

~~In cases where the complaint investigation results in a finding that the allegation of discrimination/retaliation is substantiated, action must be taken by the Compliance Officer to remedy the past effects of such discrimination/retaliation on a student. This may include but is not limited to providing a contact person to monitor the student, providing tutoring to the student, allowing the student to retake tests or assignments, and counseling.~~

### **Sanctions and Monitoring Disciplinary Action**

The Board shall vigorously enforce its prohibitions against unlawful discrimination/retaliation ~~occurring in the Corporation's educational opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's educational opportunities, programs and activities, affecting the Corporation environment~~ by taking appropriate action reasonably calculated to stop and prevent further misconduct.

While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable State law and the terms of ~~the any~~ relevant collective bargaining ~~agreement(s), if any, and with Federal and State laws and regulations.~~ agreement(s), if any, agreement or student code of conduct. ~~With respect to violations of this policy by Respondents who are students, disciplinary action may be imposed up to and including expulsion from school, in accordance with applicable State law. Any discipline of students with disabilities will be in accordance with the Individuals with Disabilities Education Act ("IDEA") and the Federal and State regulations implementing the IDEA.~~

When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter, including the age and maturity level of any student involved. In those cases where unlawful discrimination/retaliation is not substantiated, the Board may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies, consistent with the terms of ~~the any~~ relevant collective bargaining ~~agreement(s), if any, and with Federal and State laws and regulations.~~ agreement or student code of conduct.

~~**All** Where the Board becomes aware that a prior disciplinary action has been taken against Respondent, all subsequent sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to end such conduct, prevent its recurrence, and remedy its effect. Prior sanctions imposed on the Respondent(s) for similar past conduct shall be considered in determining the appropriateness of the sanction(s) imposed for the present conduct. The Board may appoint an individual, who may be an employee of the Corporation, to monitor the Respondent to ensure no further discrimination or retaliation occurs. Likewise, the Board may appoint an individual, who may be an employee of the Corporation other than the Respondent, to follow up with the Complainant to ensure that no further discrimination or retaliation has occurred and to take action to promptly address any reported occurrences.~~

### **Retaliation**

Retaliation against a person who makes a report or files a complaint alleging unlawful harassment/retaliation or participates as a witness in an investigation is prohibited. Neither the Board nor any other person may intimidate, threaten, coerce or interfere with any individual because the person opposed any act or practice made unlawful by any Federal or State civil rights law, made a report, formal complaint, testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under those laws or this policy, or exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws or this policy.

Retaliation against a person for making a report of discrimination, filing a formal complaint, or participating in an investigation or meeting is a serious violation of this policy that can result in the imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

Formal complaints alleging retaliation may be filed according to the internal complaint process set forth above.

The exercise of rights protected under the First Amendment of the United States Constitution does not constitute retaliation prohibited under this policy.

### **Education and Training**

In support of this policy, the Board promotes preventative educational measures to create greater awareness of unlawful discriminatory practices. The Superintendent shall provide appropriate information to all members of the Corporation community related to the implementation of this policy and shall provide training for Corporation students and staff where appropriate. All training and information provided regarding the Board's policy and discrimination in general will be age and content appropriate.

Retention of ~~Public Records, Student Records, and~~ Investigatory Records and Materials

The CO is responsible for overseeing the retention of all records that must be maintained pursuant to this policy. All individuals charged with conducting investigations under this policy shall retain all ~~information,~~ documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and received as part of an investigation, ~~including but not limited to complaints, responses, witness statements, documentary evidence, audio, video and/or digital recordings, handwritten and contemporaneous notes, e-mails related to the investigation and allegations, printouts, letters, determinations, and summaries. The information, documents, ESI, and electronic media (as defined in Policy 8315) retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records);~~ which may include but are not limited to:

A. all written reports/allegations/complaints/grievances/statements/responses pertaining to an alleged violation of this policy;

B. any narratives that memorialize oral reports/allegations/complaints/grievances/statements/responses pertaining to an alleged violation of this policy;

C. any documentation that memorializes the actions taken by Corporation personnel or individuals contracted or appointed by the Board to fulfill its responsibilities related to the investigation and/or the Corporation's response to the alleged violation of this policy;

D. written witness statements;

E. narratives, notes from, and audio, video, or digital recordings of witness interviews/statements;

F. e-mails, texts, and social media posts that directly relate to or constitute evidence pertaining to an alleged violation of this policy (i.e., not after-the-fact commentary about or media coverage of the incident);

G. notes and summaries prepared contemporaneously by the investigator in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.), but not including transitory notes whose content is otherwise memorialized in other documents;

H. written disciplinary sanctions issued to students or employees and other documentation that memorializes oral disciplinary sanctions issued to students or employees for violations of this policy;

I. dated written determinations/reports (including summaries of relevant exculpatory and inculpatory evidence) and other documentation that memorializes oral notifications to the parties concerning the outcome of the investigation, including any consequences imposed as a result of a violation of this policy;

J. documentation of any supportive measures offered and/or provided to the Complainant or the Respondent, including no contact orders issued to both parties; the dates the no contact orders were issued, and the dates the parties acknowledged receipt of the no contact order;

K. documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects;

L. copies of the Board policy and procedures/guidelines used by the Corporation to conduct the investigation and any documents used by the Corporation at the time of the alleged violation to communicate the Board's expectations to students and staff with respect to the subject of this policy (e.g., Student Code of Conduct and/or Employee Handbooks);

M. copies of any documentation that memorializes any formal or informal resolutions to the alleged discrimination or harassment;

The information, documents, ESI, and electronic media (as defined in Policy 8315) retained may include public records and records exempt from disclosure under Federal (e.g., FERPA, ADA) and/or State (e.g., I.C. 5-14-3-4) law, such as student records and confidential medical records.

The ~~information,~~ documents, ESI, and electronic media (as defined in Policy 8315) created or received as part of an investigation shall be retained in accordance with Policy 8310, Policy 8315, Policy 8320, and Policy 8330 for not less than three (3) years and longer if required by ~~and~~ the Corporation's records retention schedule.

#### **Retaliation**

~~Retaliation against a person who (1) makes a report or files a complaint alleging unlawful discrimination occurring in the Corporation's educational opportunities, programs and/or activities, or, if initially occurring off Corporation~~

~~grounds or outside the Corporation's educational opportunities, programs and activities, affecting the Corporation environment, or (2) participates as a witness in an investigation, is prohibited. Specifically, the Board will not discriminate/retaliate against, coerce, intimidate, threaten or interfere with any individual because s/he opposed any act or practice made unlawful by Federal or State nondiscrimination laws, made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under those laws, or exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws. Individuals found to have engaged in retaliation shall be subject to disciplinary action, up to and including termination of employment or expulsion from school.~~

#### ~~Training~~

~~The Compliance Officers also will oversee the training of Corporation employees so that all employees understand their rights and responsibilities under Federal and State law and are informed of the Board's policies and practices with respect to fully implementing and complying with the requirements of Federal and State law.~~

#### ~~Notice~~

~~Notice of the Board's policy on nondiscrimination in educational programs and the identity of the Compliance Officers will be posted throughout the Corporation and published in any Corporation statement regarding the availability of educational opportunities, in any student handbooks, and in general information publications of the Corporation as required by Federal and State law and this policy.~~

~~The Superintendent shall annually attempt to identify children with disabilities, ages 3-22, who reside in the Corporation but do not receive public education. In addition, s/he shall establish procedures to identify students who are Limited English Proficient (LEP), including immigrant children and youth, to assess their ability to participate in Corporation programs, and develop and administer a program that meets the English language and academic needs of these students. This program shall include procedures for student placement, services, evaluation and exit guidelines and shall be designed to provide students with effective instruction that leads to academic achievement and timely acquisition of proficiency in English. As a part of this program, the Corporation will evaluate the progress of students in achieving English language proficiency in the areas of listening, speaking, reading and writing, on an annual basis (see AG 2260F).~~

Revised 11/15/11

Revised 4/16/13

Revised 3/15/16

© Neola 2018

#### Legal

I.C. 20-33-1-1

Fourteenth Amendment, U.S. Constitution

20 U.S.C. Section 1681, Title IX of Education Amendment Act

20 U.S.C. Section 1701 et seq., Equal Educational Opportunities Act of 1974

20 U.S.C. Section 7905, Boy Scouts of America Equal Access Act

29 U.S.C. Section 794, Rehabilitation Act of 1973

29 C.F.R. Part 1635

42 U.S.C. Section 2000 et seq., Civil Rights Act of 1964

42 U.S.C. Section 2000ff et seq., The Genetic Information Nondiscrimination Act

42 U.S.C. 12101 et seq., The Americans with Disabilities Act of 1990, as amended

42 U.S.C. 6101 et seq., Age Discrimination Act of 1975

34 CFR Part 110 (7/27/93)

Vocational Education Program Guidelines for Eliminating Discrimination and Denial of Services, Department of Education, Office of Civil Rights, March 1979

Title III of the No Child Left Behind Act of 2001