

<b>DESCRIPTOR TERM:</b>  <b>Non-Discrimination</b>	<b>Millard District Policy</b> <b>File Code: 1010</b>  <b>Approved: 09-10-15</b>
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## **NON-DISCRIMINATION**

### *Anti-Discrimination and Civil Rights Grievance Procedures*

#### **A. Purpose**

Millard School District is committed to providing an educational environment in which all individuals are treated with respect and dignity. Each individual has the right to work and learn in a professional atmosphere that promotes equal opportunities and prohibits discriminatory practices, including harassment. Millard School District expects all relationships among persons in the office, at school, during activities, and in the classroom to be educationally promoting and free of bias, prejudice, and harassment.

Millard School District has developed this policy to ensure that all its employees and students can work and learn in an environment free from harassment, discrimination and retaliation. Millard School District will make every reasonable effort to ensure that all concerned are familiar with these policies and are aware that any complaint in violation of such policies will be investigated and resolved appropriately and in a timely manner.

#### **B. Policy**

Millard School District Compliance Officers, herein listed, will be responsible for implementing the complaint procedures of this policy. The actual names of the Compliance Officers may change from time to time due to new assignments. Name changes will be kept current by the superintendent, and need not be approved by the School Board.

##### **1. Students:**

- a. Disability: Complaints alleging claims of discrimination toward a student based on the student's disability may be directed to the following Compliance Officer:

T. Gregory Chappell  
Special Education Director  
285 East 450 North  
Delta, UT 84624  
(435) 864-1000

- b. Gender in Athletic Programs: Complaints alleging discriminatory conduct in athletic programs in violation of Title IX may be directed to the following Compliance Officer:

Scott P. Bassett  
Student Services Director  
285 East 450 North  
Delta, UT 84624  
(435) 864-1000

**2. Characteristic Protected by Class:**

- a. Millard School District does not discriminate on the basis of race, color, national origin, sex, disability, gender identity or expression, sexual orientation, religious affiliation, marital status, citizenship, pregnancy or breastfeeding status, genetic information, age, veteran status, or any other characteristic protected by law.
- b. Employees, students, parents, guardians, or citizens who are alleging a civil rights compliance violation based on characteristics protected by class may be directed to the following Compliance Officer:

Scott P. Bassett  
Human Resources and Student Services Director  
285 East 450 North  
Delta, UT 84624  
(435) 864-1000

**3. Employment:**

- a. Complaints alleging discriminatory conduct in employment practices on basis of race, color, national origin, sex, disability, gender identity or expression, sexual orientation, religious affiliation, marital status, citizenship, pregnancy or breastfeeding status, genetic information, age, veteran status, or any other characteristic protected by law may be directed to the following Compliance Officer:

Scott P. Bassett  
Human Resources Director  
285 East 450 North  
Delta, UT 84624  
(435) 864-1000

4. **Facilities:**

- a. Complaints alleging failure to maintain applicable accessibility standards of school facilities resulting in discrimination against students, parents of students, visitors, Boy Scouts, or other youth groups may be directed to the following Compliance Officer:

Keith T. Griffiths  
Business Administrator  
285 East 450 North  
Delta, UT 84624  
(435) 864-1000

- b. Employees, Students, Parents, Guardians, or Citizens requesting or interested in obtaining information about workplace accommodations should contact:

Keith T. Griffiths  
Business Administrator  
285 East 450 North  
Delta, UT 84624  
(435) 864-1000

C. **Procedures**

1. **Definitions:**

- a. **Complainant:** a person who files either a written or oral complaint about illegal harassment.
- b. **Discrimination:** the unequal treatment of persons based on certain characteristics.
- c. **Gender Identity:** can be shown by providing evidence, including, but not limited to, medical history, care or treatment of the gender identity, consistent and uniform assertion of the gender identity, or other evidence that the gender identity is sincerely held, part of a person's core identity, and not being asserted for an improper purpose.
- d. **Harassment:** a form of discrimination involving unwelcome conduct based on certain characteristics. Harassment does not have to include an intent to harm, may be between persons of the same characteristic, and may be subtle. Harassment includes, but is not limited to offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objectives or pictures, and interference with a person's education or work performance in a manner that is so severe, persistent, or pervasive that it creates a hostile environment.

- e. **Hostile environment:** when harassment conduct is sufficiently severe, pervasive, or persistent so as to limit a student's ability to participate in or benefit from services, activities, or opportunities offered by a school; or unreasonably interferes with an employee's work performance.
- f. **Retaliation:** unwanted conduct toward a person for reporting discrimination or harassment.

## 2. Prohibitions

- a. **Discrimination:** Consistent with Section B above, Millard School District prohibits discrimination in schools and employment on the basis of race, color, national origin, sex, disability, gender identity or expression, sexual orientation, religious affiliation, marital status, citizenship, pregnancy or breastfeeding status, genetic information, age, veteran status, or any other characteristic protected by law.
- b. **Harassment:** Harassment on the basis of any protected characteristic is strictly prohibited.
  - (1) In addition, under this policy, harassment is verbal, written or physical conduct that denigrates or shows hostility or aversion toward an individual (student or employee), or that of his or her relatives, friends or associates, because of his or her race, color, national origin, sex, disability, gender identity or expression, sexual orientation, religious affiliation, marital status, citizenship, pregnancy or breastfeeding status, genetic information, age, veteran status, or any other characteristic protected by law.
  - (2) Harassing conduct includes epithets, slurs or negative stereotyping; threatening, intimidating or hostile acts; denigrating jokes; and written or graphic material that denigrates or shows hostility or aversion toward an individual or group that is placed on walls or elsewhere on the employer's premises or circulated in the school and/or workplace, during school or work time or using school district equipment by e-mail, phone (including voice messages), text messages, social networking sites or other means.

c. **Sexual Harassment**

- (1) **Students:** Sexual harassment of students is a form of sex discrimination prohibited by Title IX of the Educational Amendments Act where the harassment is so severe, pervasive, and objectively offensive that it can be said to deprive the victims of access to the educational opportunities or benefits provided by the school. (DAVIS v. MONROE COUNTY BD. OF ED., 526 U.S. 629 [1999]).
  - (a) Sexual harassment is prohibited under this policy.
  - (b) In some circumstances, nonsexual conduct may take on sexual connotations and rise to the level of sexual harassment. For example, an adult or student repeatedly hugging or putting his or her arms around students under inappropriate circumstances could create a hostile environment.
  - (c) Title IX and the district prohibit gender-based harassment, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping, even if those acts do not involve conduct of a sexual nature.
  - (d) Title IX's and the district's prohibition against sexual harassment does not extend to legitimate nonsexual touching or other nonsexual contact. For example, a high school athletic coach hugging a student who made a goal or a kindergarten teacher's consoling hug for a child with a skinned knee will not be considered sexual harassment. Similarly, one student's demonstration of a sports maneuver or technique requiring contact with another student will not be considered sexual harassment.
- (2) **Employees or Applicants:** Sexual harassment constitutes discrimination and is illegal under federal, state and local laws.
  - (a) For the purposes of this policy, "sexual harassment" is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when, for example:

- [i] submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
    - [ii] submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; and/or
    - [iii] such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.
  - (b) Title VII of the Civil Rights Act of 1964 recognizes two types of sexual harassment: quid pro quo (something for something, a favor for a favor) and hostile work environment.
  - (c) Sexual harassment may include a range of subtle and not-so-subtle behaviors and may involve individuals of the same or different gender.
  - (d) Depending on the circumstances, sexual harassment behaviors may include unwanted sexual advances or requests for sexual favors; sexual jokes and innuendo; verbal abuse of a sexual nature; commentary about an individual's body, sexual prowess or sexual deficiencies; leering, whistling or touching; insulting or obscene comments or gestures; display in the workplace of sexually suggestive objects or pictures; and other physical, verbal or visual conduct of a sexual nature.
- d. **Retaliation:** Millard School District encourages reporting to the appropriately designated employee of all perceived incidents of discrimination or harassment. It is the policy of the Millard School District to promptly and thoroughly investigate such reports in accordance with procedures set forth below. Millard School District prohibits retaliation against any individual who reports discrimination or harassment and/or participates in an investigation of such reports.

### 3. **Individuals and Conduct Covered**

- a. These policies apply to all students, employees, applicants, and patrons of the Millard School District, and prohibit discriminatory conduct engaged in by a student, staff member, administrator, or employee.

- b. Conduct prohibited by these policies is unacceptable in the educational environment, workplace, classroom, on field trips, or other activities and may result in discipline.

**4. Reporting an Incident of Harassment, Discrimination, or Retaliation**

- a. Individuals who believe they have been the victims of conduct prohibited by this policy, or believe they have witnessed such conduct should discuss their concerns with the building-level administrator, district-level administrator, or contact the individuals identified by title in this policy.
- b. Millard School District encourages the prompt reporting of complaints or concerns so that rapid and constructive action can be taken before relationships become irreparably strained. Therefore, while no fixed reporting period has been established, early reporting and intervention have proven to be the most effective method of resolving actual or perceived incidents of harassment and discrimination.
- c. Any reported allegations of harassment, discrimination, or retaliation will be investigated promptly in accordance with the procedures set forth below. The investigation may include individual interviews with the parties involved and, where necessary, with individuals who may have observed the alleged conduct or may have other relevant knowledge.
- d. Any teacher, counselor, administrator, or employee receiving a report of harassment, discrimination, or retaliation from a student or employee/applicant must report the incident to a building-level or district-level administrator.
- e. The complainant should complete the “Anti-Discrimination & Civil Rights Investigation Form” at the time of reporting. A copy of this form is attached to this policy.
- f. Once an administrator has notice of possible harassment, discrimination, or retaliation of students or employee/applicants, whether carried out by employees, students, or third parties, they must take immediate and appropriate steps to investigate or otherwise determine what occurred and take prompt and effective steps reasonably calculated to end any harassment, eliminate a hostile environment if one has been created, and prevent harassment or discrimination from occurring again.

- g. These steps are the administrator's responsibility whether or not the student or employee/applicant who was harassed makes a complaint or otherwise asks the school to take action. What constitutes a reasonable response to information about possible discrimination, retaliation, or harassment will differ depending upon the circumstances.

**5. Administrative Investigation Procedures for Students**

- a. If a student or the parent of an elementary or secondary student provides information or complains about harassment, discrimination, or retaliation of the student, the administration must promptly investigate to determine what occurred and then take appropriate steps to resolve the situation. In all cases the inquiry must be prompt, thorough, and impartial.
- b. When a complaint is received, the administrator should ask the complainant to complete the "Anti-Discrimination & Civil Rights Investigation Form" as soon as possible. A copy of this form is attached to this policy.
- c. It may be appropriate for an administrator to take interim measures during the investigation of a complaint. For instance, if a student alleges that he or she has been sexually assaulted by another student, the administrator may decide to place the students immediately in separate classes. If the alleged harasser is a teacher, the student will be removed from the class or the teacher placed on administrative leave pending an investigation into the allegations.
- d. In cases involving potential criminal conduct, school personnel must immediately notify appropriate law enforcement authorities. In all cases, schools should make every effort to prevent disclosure of the names of all parties involved, the complainant, the witnesses, and the accused, except to the extent necessary to carry out an investigation or comply with the law.
- e. If, following the investigation, the administration concludes that harassment, discrimination, or retaliation has occurred, it should take reasonable, timely, age-appropriate, and effective corrective action, including steps tailored to the specific situation.
- f. Appropriate steps must be taken to end the harassment, discrimination, or retaliation. School personnel may need to counsel, warn, or take disciplinary action against the harasser to include the possibility of suspension, expulsion, or temporary disciplinary transfer of the student in accordance with the district's

Safe School Policy (File Code: 6090), depending on the severity of the harassment or any record of prior incidents or both.

**6. Administrative Investigation Procedures for Employees or Applicants**

- a. Whenever a harassment, discrimination, or retaliation complaint is made by an employee or applicant for employment, the supervisor or administrator must take action to investigate the complaint or to refer the complaint for investigation, even if the victim does not request action. The administrator should ask the complainant to complete the “Anti-Discrimination & Civil Rights Investigation Form” as soon as possible. A copy of this form is attached to this policy.
- b. Investigations should be prompt and commence as soon as possible following receipt of the complaint.
- c. The supervisor or administrator must submit a copy of all investigation and interview documentation involving employee harassment, discrimination, or retaliation to the district’s Human Resource Director.
- d. If the investigation finds a Millard School District employee engaged in harassment, discrimination, or retaliation and there is reason to believe disciplinary action is justified, the supervisor or administrator:
  - (1) will work with the district’s Human Resource Director to determine the level of action to be taken;
  - (2) will report back to the complainant, notifying him/her in person and in writing regarding the action taken; and
  - (3) will instruct the complainant to report immediately if the objectionable behavior occurs again or if the harasser engages in retaliation.

**7. False Complaints**

False and malicious complaints of harassment, discrimination or retaliation (as opposed to complaints that, even if erroneous, are made in good faith) by employees or students may be the subject of disciplinary action.

**8. Training**

- a. All new employees shall receive information about this policy at new employee orientation. All other employees shall be provided information on a regular basis regarding this policy and the district's commitment to a discrimination-free and harassment-free learning and working environment.
- b. Administrative employees who have specific responsibilities for investigating and resolving complaints shall receive training on this policy and related legal developments.
- c. Building-level administrators and program directors shall be responsible for informing students and staff of the terms of this policy, including the procedures established for investigation and resolution of complaints.

**9. Appeal to the Superintendent**

- a. If a party to a complaint does not agree with its resolution, that party may appeal to the Millard School District Superintendent. The superintendent will review the complaint, findings, and render a decision regarding the action taken
- b. If the party is not satisfied with the superintendent's decision, they may appeal to the Millard School District Board of Education. At its discretion, the board may convene a panel consisting of two board members and the superintendent to conduct a hearing as part of the appeal process. The board's decision will be final.

**10. Expanded Review of a Complaint**

- a. Students or parents alleging practices of discrimination or other related violation of civil rights may also file a formal complaint with the following agencies:

Utah State Office of Education  
250 East 500 South  
P.O. Box 144200  
Salt Lake City, UT 84114-4200  
(801) 538-7500

Denver Office for Civil Rights  
U.S. Department of Education  
Cesar E. Chavez Memorial Building

1244 Speer Boulevard, Suite 310  
Denver, CO 80204-3582  
(303) 844-4303

Office for Civil Rights  
U.S. Department of Education  
420 Maryland Avenue, S.W.  
Washington D.C. 20202-1100

- b. Employees or applicants alleging employment practices discrimination or other related violation of civil rights may also file a formal complaint with the following agencies:

Utah Anti-Discrimination and Labor Division\*  
160 East 300 South, 3<sup>rd</sup> Floor  
Salt Lake City, UT 84114-6600  
(801) 530-6800 or (800) 530-5090  
Monday – Friday from 8:00 a.m. to 5:00 p.m.

Equal Employment Opportunity Commission Denver Office\*\*  
303 E. 17th Avenue, Suite 410  
Denver, CO 80203  
(800) 669-4000  
Monday – Friday from 8:00 a.m. to 5:00 p.m.

\*Individuals must file their charge of employment discrimination with the Utah Anti-Discrimination and Labor Division UALD within 180 days of the alleged discriminatory act.

\*\*If more than 180 days, but less than 300 days have passed since the last date of harm, the charge must be sent to the Equal Employment Opportunity Commission (EEOC) for its consideration.

**References:**

Abuse and Neglect: Utah Code Ann § 62A-4a-402 Et. Seq. When any person has reason to believe that a child has been subjected to abuse or neglect, that person shall immediately notify the nearest peace officer, law enforcement agency, or office of the Division of Child and Family Services.

Discrimination in Employment: Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000(e)) and Utah Code Ann § 34A-5-102 Et Seq. (As modified by S.B 296 Utah 2015 General Session) <http://www.eeoc.gov/laws/statutes/titlevii.cfm>

Discrimination on the basis of Age: The Age Discrimination Act of 1975 (29 U.S.C. § 631) and its implementing regulations (34 C.F.R. Part 110).

Discrimination on the basis of Disability: Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) and its implementing regulations (34 C.F.R Part 104). Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12131 - 12134) and its implementing regulations (28 C.F.R. Part 35).

Discrimination on the basis of Gender: Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681) and its implementing regulations (34 C.F.R. Part 106).

Discrimination on the basis of Race, Color, or National Origin: Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000(d)) and its implementing regulations (34 C.F.R. Part 100)

Equal Employment Opportunity Commission (EEOC) Regulations: 29 C.F.R. § 1600 Et. Seq. <https://www.law.cornell.edu/cfr/text/29/chapter-XIV>

Sexual harassment: Title IX of the Education Amendments of 1972 prohibits sexual harassment of a student. An educational institution cannot deny or limit, on the basis of sex, the student's ability to participate in or to receive benefits, services, or opportunities in the school's program.

Utah Criminal Code: UCA §§ 76-5-401 through 76-5-407. Criminal Code provisions regarding unlawful sexual intercourse, rape, rape of a child, object rape, object rape of a child, sodomy and forcible sexual abuse, sexual abuse of a child, and aggravated sexual assault.

Utah Educator Standards: Utah Administrative Code R277-515, which requires the professional educator to familiarize him/her self with professional ethics and to be responsible for compliance with applicable professional standards.

# Anti-Discrimination & Civil Rights Investigation Form

Millard School District – Policy 1010

Name of Grievant/Complainant:		Investigator:	Date and Time of Interview:
Location of Concern or Incident:		Subject:	
Names of Parties Involved:			
Date the alleged violation occurred:	Date the complainant became aware of violation:	If violation was repeated, list date(s) of other violations:	
Describe, in detail, the action or practice complained of:			
List names of any witnesses to the alleged violation:			
Provide any other information that may help resolve the complaint:			

Identify the Complainant's requested remedy:

I certify that the above information is true and accurate to the best of my knowledge and that this document contains a complete description of the alleged discrimination incident or complaint.

Signature of Investigator

Date

Signature of Complainant

Date:

Names of others present during the interview:

Investigation findings: