

EQUITY and LEGAL COMPLIANCE

Section 1 Non-Discrimination

A. Policy of Non-Discrimination

ESU #13 does not discriminate on the basis of any protected status in its programs and activities and provides equal access to designated youth groups. Reasonable accommodations will be provided to employees with disabilities and to those who are pregnant, have given birth, or have a related medical condition, as required by law. Complaints or concerns involving discrimination should be addressed to:

Danielle Cole, ESU #13 Compliance Coordinator/Director of Title 1C Program
4215 Avenue I, Scottsbluff, NE 69361 (308) 635-3696 (dcole@esu13.org)

For further information about anti-discrimination laws and regulations, or to file a complaint of discrimination with the Office of Civil Rights in the U.S. Department of Education (OCR), please contact the OCR at One Petticoat Lane, 1010 Walnut Street, 3rd Floor, Suite 320, Kansas City, Missouri 64106, (816) 268-0550 (voice), Fax (816) 268-0599, (800) 877-8339 (telecommunications device for the deaf), or ocr.kansascity@ed.gov.

ESU #13 is committed to offering employment and educational opportunities to its employees and students in a climate free of discrimination. Accordingly, unlawful discrimination of any kind by ESU #13 employees, including co-workers, non-employees (such as volunteers), third parties, and others is strictly prohibited and will not be tolerated. All ESU #13 employees are expected to take prompt and appropriate actions to report and prevent discrimination. Employees who witness or become aware of possible discrimination must immediately report the conduct to his or her supervisor or the designated Compliance Coordinator.

B. Harassment

1. General Harassment

Harassment is a form of discrimination and includes verbal, non-verbal, written, graphic, or physical conduct relating to any protected status that is sufficiently serious to deny, interferes with, or limits a person's ability to participate in or benefit from an educational or work program or activity, including, but not limited to:

- a. conduct that is sufficiently severe or pervasive to create an intimidating, hostile, or abusive educational or work environment; or
- b. requiring an individual to endure the offensive conduct as a condition of continued employment or educational programs or activities, including the receipt of aids, benefits, and services.

Educational programs and activities include all academic, educational, extracurricular, athletic, and other programs of the school, whether those programs take place in a school's

facilities, on a school bus, at a class or training program sponsored by the school at another location, or elsewhere.

Discriminatory harassment because of any protected status may include, but is not limited to:

- a. Name-calling
- b. Teasing or taunting
- c. Insults, slurs, or derogatory names or remarks
- d. Demeaning jokes
- e. Inappropriate gestures
- f. Graffiti or inappropriate written or electronic material
- g. Visual displays, such as cartoons, posters, or electronic images
- h. Threats or intimidating or hostile conduct
- i. Physical acts of aggression, assault, or violence
- j. Criminal offenses

2. Sexual Harassment

The following examples are additional or more specific examples of conduct that may constitute sexual harassment:

- a. Unwelcome sexual advances or propositions;
- b. Requests or pressure for sexual favors;
- c. Comments about an individual's body, sexual activity, or sexual attractiveness;
- d. Physical contact or touching of a sexual nature, including touching intimate body parts and inappropriate patting, pinching, rubbing, or brushing against another's body;
- e. Physical sexual acts of aggression, assault, or violence, including criminal offenses (such as rape, sexual assault or battery, and sexually motivated stalking), against a person's will or where a person is incapable of giving consent due to the victim's age, intellectual disability, or use of drugs or alcohol;
- f. Requiring sexual favors or contact in exchange for aids, benefits, or services, such as grades, awards, privileges, promotions, etc.; or
- g. Gender-based harassment; acts of verbal, nonverbal, written, graphic, or physical conduct based on sex or sex-stereotyping, but not involving conduct of a sexual nature.

If ESU #13 knows or reasonably should know about possible harassment, including violence, ESU #13 will conduct a prompt, adequate, reliable, thorough, and impartial investigation to determine whether unlawful harassment occurred (see section entitled "Grievance Procedures," below), and take appropriate interim measures, if necessary. If ESU #13 determines that unlawful harassment occurred, ESU #13 will take prompt and effective action to eliminate the harassment, prevent its recurrence, and remedy its effects, if appropriate. If harassment or violence that occurs off school property creates a hostile environment at school, ESU #13 will follow this policy and grievance

procedure, within the scope of its authority.

ESU #13 is committed to offering employment and educational opportunities to its employees and students in a climate free of harassment. Accordingly, unlawful harassment of any kind by ESU #13 employees, including co-workers, non-employees (such as volunteers), third parties, and others is strictly prohibited and will not be tolerated. All ESU #13 employees are expected to take prompt and appropriate actions to report and prevent harassment. Employees who witness or become aware of possible harassment must immediately report the conduct to his or her supervisor or the designated Compliance Coordinator.

C. Anti-retaliation

ESU #13 prohibits retaliation, intimidation, threats, coercion, or discrimination against any person for opposing discrimination, including harassment, or for participating in ESU #13's discrimination complaint process or making a complaint, testifying, assisting, or participating in any manner, in an investigation, proceeding, or hearing. Retaliation is a form of discrimination.

ESU #13 will take immediate steps to stop retaliation and prevent its recurrence against the alleged victim and any person associated with the alleged victim. These steps will include, but are not limited to, notifying students, employees, and others, that they are protected from retaliation, ensuring that they know how to report future complaints, and initiating follow-up contact with the complainant to determine if any additional acts of discrimination, harassment, or retaliation have occurred. If retaliation occurs, ESU #13 will take prompt and strong responsive action, including possible discipline, including expulsion or termination, if applicable.

ESU #13 is committed to offering employment and educational opportunities to its employees and students in a climate free of retaliation. Accordingly, unlawful retaliation of any kind by ESU #13 employees, including co-workers, non-employees (such as volunteers), third parties, and others is strictly prohibited and will not be tolerated. All ESU #13 employees are expected to take prompt and appropriate actions to report and prevent retaliation. Employees who witness or become aware of possible retaliation must immediately report the conduct to his or her supervisor or the designated Compliance Coordinator.

D. Grievance (Complaint) Procedures

Employees or students should initially report all instances of discrimination, harassment or retaliation to their immediate supervisor or teacher or to the Compliance Coordinator designated to handle complaints of discrimination. If the employee or student is uncomfortable in presenting the problem to the supervisor or teacher, or if the supervisor or teacher is the problem, the employee or student may report the alleged discrimination, harassment or retaliation ("discrimination") to the Compliance Coordinator.

If the Compliance Coordinator is the person alleged to have committed the discriminatory act, then the complaint should be submitted to the administrator for assignment. A discrimination complaint form is attached to this grievance procedure and is available in the office of each ESU #13 building, on the ESU #13 website, and from the Compliance Coordinator.

Under no circumstances will a person filing a complaint or grievance involving discrimination be retaliated against for filing the complaint or grievance.

The Compliance Coordinator will review and evaluate each grievance, complaint, or report to determine if such grievance, complaint or report is covered under Title IX. If such a grievance, complaint or report is covered under Title IX, then the Compliance Coordinator will follow the Title IX Grievance Procedures. For all other grievances, complaints or reports, the Compliance Coordinator will follow the following General Grievance Procedures.

E. General Grievance (or Complaint) Procedures

1. *Level 1 (Investigation and Findings)*

Once ESU #13 receives a grievance, complaint or report alleging discrimination, harassment, or retaliation, or becomes aware of possible discriminatory conduct, ESU #13 will conduct a prompt, adequate, reliable, thorough, and impartial investigation to determine whether unlawful harassment occurred. If necessary, ESU #13 will take immediate, interim action or measures to protect the alleged victim and prevent further potential discrimination, harassment, or retaliation during the pending investigation. The alleged victim will be notified of his or her options to avoid contact with the alleged harasser, such as changing a class or prohibiting the alleged harasser from having any contact with the alleged victim pending the result of ESU #13's investigation. ESU #13 will minimize any burden on the alleged victim when taking interim measures to protect the alleged victim.

ESU #13 will promptly investigate all complaints of discrimination, even if an outside entity or law enforcement agency is investigating a complaint involving the same facts and allegations. ESU #13 will not wait for the conclusion or outcome of a criminal investigation or proceeding to begin an investigation required by this grievance procedure. If the allegation(s) involve possible criminal conduct, ESU #13 will notify the complainant of his or her right to file a criminal complaint, and ESU #13 employees will not dissuade the complainant from filing a criminal complaint either during or after ESU #13's investigation.

ESU #13 will aim to complete its investigation within ten (10) working days after receiving a complaint or report, unless extenuating circumstances exist. Extenuating circumstances may include the unavailability of witnesses due to illness or incapacitation, or additional time needed because of the complexity of the investigation, the need for outside experts to evaluate the evidence (such as forensic evidence), or multiple complainants or victims. If extenuating circumstances exist, the extended timeframe to complete the investigation will not exceed ten (10) additional working days without the consent of the complainant, unless the alleged victim agrees to a longer timeline. Periodic status updates will be given to the parties, when appropriate.

ESU 13's investigation will include, but is not limited to:

- a. Providing the parties with the opportunity to present witnesses and provide evidence.
- b. An evaluation of all relevant information and documentation relating to the alleged discriminatory conduct.
- c. For allegations involving harassment, some of the factors ESU #13 will consider include: 1) the nature of the conduct and whether the conduct was unwelcome, 2) the surrounding circumstances, expectations, and relationships, 3) the degree to which the conduct affected one or more students' education, 4) the type, frequency, and duration of the conduct, 5) the identity of and relationship between the alleged harasser and the suspect or suspects of the harassment, 6) the number of individuals involved, 7) the age (and sex, if applicable) of the alleged harasser and the alleged victim(s) of the harassment, 8) the location of the incidents and the context in which they occurred, 9) the totality of the circumstances, and 10) other relevant evidence.
- d. A review of the evidence using a “preponderance of the evidence” standard (based on the evidence, is it more likely than not that discrimination, harassment, or retaliation occurred?)

The Compliance Coordinator (or designated investigator) will complete an investigative report, which will include:

- a. A summary of the facts,
- b. Findings regarding whether discrimination, harassment or other inappropriate conduct occurred, and
- c. If a finding is made that discrimination, harassment or other inappropriate conduct occurred, the recommended remedy or remedies necessary to eliminate discrimination, harassment or other inappropriate conduct.

If someone other than the Compliance Coordinator conducted the investigation, the Compliance Coordinator will review, approve, and sign the investigative report. ESU #13 will ensure that prompt, appropriate, and effective remedies are provided if a finding of discrimination, harassment, or retaliation is made. ESU #13 will maintain relevant documentation obtained during the investigation and documentation supportive of the findings and any subsequent determinations, including the investigative report, witness statements, interview summaries, and any transcripts or audio recordings, pertaining to the investigative and appeal proceedings.

ESU #13 will send concurrently to the parties written notification of the decision (findings and any remedy) regarding the complaint within **one (1) working day** after the investigation is completed. The Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 11232g; 34 C.F.R. Part 99, permits ESU #13 to disclose relevant information to a student who was discriminated against or harassed.

2. *Level 2 (Appeal to the Administrator)*

If a party is not satisfied with the findings or remedies (or both) set forth in the decision,

he or she may file an appeal in writing with the Administrator within five (5) working days after receiving the decision. The Administrator will review the appeal and the investigative documentation and decision, conduct additional investigation, if necessary, and issue a written determination about the appeal within ten (10) working days after receiving the appeal. The party who filed the appeal will be sent the Administrator's determination at the time it is issued, and a copy will be sent to the Compliance Coordinator. [If the Administrator is the subject of the complaint, the party will file the appeal directly with the Board.]

3. *Level 3 (Appeal to the Board)*

If the party is not satisfied with the Administrator's determination, he or she may file an appeal in writing with the Board within five (5) working days after receiving the Administrator's determination. The Board will review the appeal, the Administrator's determination, the investigative documentation and decision, and allow the party to address the Board at a Board meeting to present his or her appeal. The party will be allowed to address the Board at the Board's next regularly scheduled Board meeting (unless the Board receives the appeal within one week of the next regularly scheduled Board meeting) or at a time and date agreed to by the Board, Compliance Coordinator and the party. The Board will issue a written determination about the appeal within thirty (30) days after the party addresses the Board. The party who filed the appeal will be sent the Board's determination at the time it is issued, and a copy will be sent to the Compliance Coordinator. The Board's determination, and any actions taken, will be final on behalf of ESU #13.

F. Confidentiality

The identity of the complainant will be kept confidential to the extent permitted by state and federal law. ESU #13 will notify the complainant of the anti-retaliation provisions of applicable laws and that ESU #13 will take steps to prevent retaliation and will take prompt and strong responsive actions if retaliation occurs.

If a complainant requests confidentiality or asks that the complaint not be pursued, ESU #13 will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or the request not to pursue an investigation, as long as doing so does not prevent ESU #13 from responding effectively to the harassment and preventing harassment of other students. If a complainant insists that his or her name or other identifiable information not be disclosed to the alleged perpetrator, ESU #13 will inform the complainant that its ability to respond may be limited. Even if ESU #13 cannot take disciplinary action against the alleged harasser, ESU #13 will pursue other steps to limit the effects of the alleged harassment and prevent its recurrence, if warranted.

G. Title IX Grievance (or Complaint) Procedures

All employees are responsible for helping to prevent sexual harassment. Employees or students, who believe they have been subjected to, or believe they have witnessed sexual harassment should

follow these procedures:

1. Directly inform the person engaging in the discrimination or harassment that such conduct is offensive and must stop.
2. For employee reporters, contact your supervisor or the supervisor of the offending person, the Title IX Coordinator, or the Human Resources Manager if you do not wish to communicate directly with the person whose conduct is offensive or if direct communication with the offending person has been ineffective.
3. Report the matter to the Title IX Coordinator or the Human Resources Manager, if the offending conduct continues or has not been resolved to your satisfaction after you have reported the matter to the supervisor.
4. For student reporters, contact any teacher.
5. Report to the Title IX Coordinator if you are the adult to whom the student has made a report so that the matter can be properly resolved. The Title IX Coordinator may file a formal complaint and begin the following complaint procedure.

Allegations of sexual harassment or discrimination shall be investigated and if substantiated, corrective or disciplinary action taken, up to and including dismissal from employment if the offender is an employee, or suspension and/or expulsion, if the offender is a student. Retaliatory action will not be taken against an employee for reporting discrimination or harassment.

H. Response to a Formal Complaint

1. Filing Formal Complaint: An employee or student can allege sexual harassment by filing a formal complaint in writing with the Title IX Coordinator in person or by mail, or by electronic mail using the following contact information:

TITLE IX COORDINATOR CONTACT INFORMATION

Danielle Cole
4215 Ave I, Scottsbluff, NE 69361
308-635-3696
dcole@esu13.org

The formal complaint must be signed by the complainant or by the Title IX Coordinator. **The following procedures apply only in the event that a formal complaint is filed. All other allegations of sexual harassment shall be resolved using the general complaint procedure. Any timelines set forth in the following procedures may be extended by the Title IX Coordinator with notice to the parties.**

2. Immediate Actions Upon Receipt of Formal Complaint: Upon receipt of a formal complaint, the Title IX Coordinator shall provide the following to all known parties of (a): The complaint procedure as outlined in this regulation; and (b): Notice of the allegations of sexual harassment including (i) the identities of the parties involved, if known, (ii) the conduct allegedly constituting sexual harassment, and (iii) the date and location of the alleged incident.

The parties to the formal complaint may select an advisor of their choice, who may be, but is not required to be an attorney.

3. Investigation of Formal Complaint: Upon receipt of a formal complaint, the Title IX Coordinator shall notify the Investigator. The Investigator will promptly investigate all complaints of discrimination, even if an outside entity or law enforcement agency is investigating a complaint involving the same facts and allegations. The Investigator will not wait for the conclusion or outcome of a criminal investigation or proceeding to begin an investigation required by this complaint procedure. If the allegation(s) involve possible criminal conduct, ESU #13 will notify the complainant of his or her right to file a criminal complaint, and ESU #13 employees will not dissuade the complainant from filing a criminal complaint either during or after ESU #13's investigation.

The Investigator will aim to complete its investigation within a reasonable time frame as determined by the Title IX Coordinator. The factors to determine a reasonable time frame include, but are not limited to the allegations of the formal complaint, the number of witnesses that may need to be interviewed, and whether the police are also conducting an investigation into the allegations. The time frame originally set by the Title IX Coordinator may be extended by the Title IX Coordinator, upon notice to the parties, as he or she deems necessary to complete the investigation. Periodic status updates will be given to the parties, when appropriate.

- a. *Neutrality:* The Title IX Coordinator, Investigator, decision-maker, or any person designated by ESU #13 to facilitate this complaint procedure shall not have any conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. ESU #13 shall ensure that Title IX Coordinators, Investigators, decision-makers, and any person who facilitates this complaint procedure shall receive training on the definition of sexual harassment in accordance with this regulation, the scope of ESU #13's education program or activity, how to conduct an investigation and complaint process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the fact at issue, conflicts of interest, and bias. ESU #13 shall ensure that the individuals involved in the complaint procedure receive training on issues of relevance of questions and evidence and on issues of relevance to create an investigative report that fairly summarizes relevant evidence.

- b. *Burden of Production:* It shall be the Investigator’s burden to gather evidence sufficient to reach a determination regarding responsibility. To reach a determination, the investigation will include, but is not limited to:
- 1) Providing the parties with the opportunity to present witnesses and provide evidence.
 - 2) An evaluation of all relevant information and documentation relating to the alleged discriminatory conduct.
 - 3) For allegations involving harassment, some of the factors ESU #13 will consider include:
 - i. the nature of the conduct and whether the conduct was unwelcome;
 - ii. the surrounding circumstances, expectations, and relationships;
 - iii. the degree to which the conduct affected one or more students' education;
 - iv. the type, frequency, and duration of the conduct;
 - v. the identity of and relationship between the alleged harasser and the suspect or suspects of the harassment;
 - vi. the number of individuals involved;
 - vii. the age (and sex, if applicable) of the alleged harasser and the alleged victim(s) of the harassment;
 - viii. the location of the incidents and the context in which they occurred;
 - ix. the totality of the circumstances; and
 - x. other relevant evidence.
 - xi. A review of the evidence using a “preponderance of the evidence” standard (based on the evidence, is it more likely than not that discrimination, harassment, or retaliation occurred?)
- c. *Rights of the Parties:* The respondent is entitled to a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the complaint process.

The Investigator must provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.

The Investigator shall not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.

The Investigator shall provide the parties with the same opportunities to have others present during any complaint proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice if the Investigator deems appropriate.

However, the Investigator may establish restrictions regarding the extent to which the advisor may participate in the proceedings, if the restrictions apply equally to both parties.

The Investigator shall provide to all witnesses expected to attend an meeting notice of the date, time, location, participants, and purpose of all hearings within 2 days of the meeting.

Up until the conclusion of the investigation, the parties shall have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint. This includes the evidence upon which the Investigator does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence obtained from any source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

ESU #13 retains the right to place a non-student employee respondent on administrative leave during the pendency of the investigation. ESU #13 also retains the right to remove a respondent from ESU #13's educational program prior to the conclusion of the investigation. In the event of a removal, the respondent shall have the opportunity to challenge the decision for removal.

- d. *Conclusion of Investigation:* Prior to the conclusion of the investigation, the Investigator shall send each party and the party's advisor, if any, the evidence that is subject to inspection and review in an electronic format or a hard copy. The parties shall then have ten (10) days to submit a written response, which the Investigator will consider.

Once the Investigator has considered the written statements of the parties, if any, and any questions of the parties, if any, the Investigator shall create an investigative report that fairly summarizes relevant evidence. The Investigator shall then submit the written investigation report to the decision-maker. The parties shall each receive a copy of the final investigative report at the same time as the decision-maker.

I. Decision of Responsibility

The decision-maker shall review the investigative report. Prior to coming to a determination regarding responsibility, the decision maker shall provide 10 days for each party to submit written, relevant questions that a party wants asked of any party or witness, provide each party with answers, and allow for additional, limited follow-up questions from each party.

Once the decision maker has considered the written questions of the parties, if any, the

decision maker shall issue a written determination regarding responsibility by a preponderance of the evidence within a reasonable time frame as determined by the Title IX Coordinator. The decision-maker shall consider all relevant evidence, including inculpatory and exculpatory evidence, and will not consider the credibility of the evidence to be based on a person's status, such as complainant, respondent, or witness. The decision-maker shall provide the written determination to both parties simultaneously. The written determination must include:

1. Identification of the allegations potentially constituting sexual harassment;
2. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, and methods used to gather evidence;
3. Findings of fact supporting the determination;
4. Conclusions regarding the application of each recipient's code of conduct to the facts;
5. A statement of, and rationale for, the results as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the recipient imposes on the respondent, and whether remedies designed to restore or preserve equal access to the recipient's education program or activity will be provided by the recipient to the complainant; and
6. The recipient's procedures and permissible bases for the complainant and respondent to appeal.

The Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. Sec. 11232g; 34 C.F.R. Part 99, permits ESU #13 to disclose relevant information to a student who was discriminated against or harassed.

J. Supportive Measures and Disciplinary Actions

Throughout the investigation, either party may be entitled to supportive measures. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the recipient's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or ESU #13's educational environment, to deter sexual harassment.

Supportive measures may include, but are not limited to, counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. ESU #13 shall maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of ESU #13 to provide the supportive measures.

At the conclusion of the investigation, the Decision-Maker may institute disciplinary measures to the respondent if the Decision-Maker determines that the respondent engaged in sexual abuse or harassment. Disciplinary measures may include, but are not limited to, in school suspension, out of school suspension, expulsion, and in the case of an employee disciplinary action up to and including dismissal from employment. **This regulation does not limit or prohibit ESU #13 from instituting disciplinary measures if in the course of the investigation it determines that the complainant or respondent violated the student code of conduct.**

The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

K. Appeals

If either party is not satisfied with the outcome of the investigation and the decision of the decision-maker, they may appeal on the following bases:

1. Procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
3. The Title IX Coordinator, Investigator, or Decision-Maker had a conflict of interest or bias for or against the complainant or respondent generally or the individual complainant or respondent that affected the outcome of the matter.

The request for an appeal shall be in writing and submitted on the appropriate document. The appeal document shall be submitted to the ESU #13 Administrator.

Upon notice of an appeal by either party, the ESU #13 Administrator shall notify the other party in writing when the appeal is filed and of the appeal procedures, which apply equally to both parties.

The ESU #13 Administrator shall give both parties a reasonable, and equal opportunity to submit a written statement in support of, or challenging the outcome.

The ESU #13 Administrator shall review the investigative report, decision-maker's determination, and written statements of the parties and then issue a written decision describing the result of the appeal and the rationale for the result. The ESU #13 Administrator shall provide the written decision simultaneously to both parties.

L. Informal Resolution

If a formal complaint is filed, ESU #13 may offer the complainant and respondent the opportunity to participate in an informal resolution process. The informal resolution process may take place at any time prior to reaching a determination regarding responsibility. The informal resolution

process shall only take place upon:

1. Written notice to both parties disclosing: the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the resolution process and resume the complaint process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
2. The parties' voluntary, written consent to the informal resolution process; and
3. That the allegations of the formal complaint do not involve any allegations that an employee sexually harassed a student.

M. Training

ESU #13 will ensure that relevant ESU #13 employees, including but not limited to officials, administrators, teachers, substitute teachers, counselors, nurses and other health personnel, coaches, assistant coaches, paraprofessionals, aides, and bus drivers are adequately trained so they understand and know how to identify acts of discrimination, harassment, and retaliation, and how to report it to appropriate ESU #13 officials or employees.

N. Designated Compliance Coordinator

The Designated Compliance Coordinator will be responsible for:

1. Coordinating efforts to comply with anti-discrimination, anti-harassment, and anti-retaliation laws and regulations.
2. Coordinating and implementing training for students and employees pertaining to anti-discrimination, anti-harassment and anti-retaliation laws and regulations, including the training areas listed above.
3. Investigating complaints of discrimination (unless the coordinator designates other trained individuals to investigate).
4. Monitoring substantiated complaints or reports of discrimination, as needed (and with the assistance of other ESU #13 employees, if necessary), to ensure discrimination or harassment does not recur, and that retaliation conduct does not occur or recur.
5. Overseeing discrimination complaints, including identifying and addressing any patterns or systemic problems, and reporting such patterns or systemic problems to the Administrator and the Board.
6. Reviewing all evidence in harassment or violence cases brought before ESU #13's disciplinary committee or administrator to determine whether the complainants are entitled to a remedy under anti-discrimination laws and regulations that was not available in the disciplinary process.
7. Ensuring that investigations address whether other students or employees may have

- 8. Determining whether ESU #13 employees with knowledge of allegations of discrimination, including harassment and retaliation, failed to carry out their duties in reporting the allegations to the designated compliance coordinator and responding to the allegations.
- 9. Recommending changes to this policy and grievance procedure.
- 10. Performing other duties as assigned.

The Designated Compliance Coordinator will not have other job responsibilities that may create a conflict of interest with their Coordinator responsibilities.

O. Preventative Measures

ESU #13 will publish and widely distribute on an ongoing basis a notice of nondiscrimination (notice) in electronic and printed formats, including prominently displaying the notice on ESU #13’s website and posting the notice at each building in ESU #13. ESU #13 also will designate an employee to coordinate compliance with anti-discrimination laws (see Designated Compliance Coordinator section, above, for further information on Compliance Coordinator), and widely publish and disseminate this grievance procedure, including prominently posting it on ESU #13’s website, at each building in ESU #13, reprinting it in ESU #13 publications, such as handbooks, and sending it electronically to members of the school community. ESU #13 will provide training to employees and students at the beginning of each academic year in the areas (B.6.a-g) identified in the Training section, above.

ESU #13 also may distribute specific harassment and violence materials (such as sexual violence), including a summary of ESU 13’s anti-discrimination, anti-harassment, and anti-retaliation policy and grievance procedure, and a list of victim resources, during events such as school assemblies and back to school nights, if recent incidents or allegations warrant additional education to the school community.

Legal Reference:	Title VI, 42 U.S.C. § 2000d, Title VII, 42 U.S.C. § 2000e, Title IX; 20 U.S.C. § 1681, and the Nebraska Fair Employment Practices Act, Neb. Rev. Stat. §48-1101 et seq. Age Discrimination in Employment Act (ADEA), the Older Workers Benefit Protection Act (OWBPA), 29 U.S.C. §621 et seq., and the Nebraska Age Discrimination in Employment Act, Neb. Rev. Stat. §48-1001 et seq.; Americans with Disabilities Act (ADA), 42 U.S.C. § 12101 et seq. Section 504 of the Rehabilitation Act of 1973 (Section 504) Pregnancy Discrimination Act, 42 U.S.C. § 2000e(k) Uniform Service Employment and Reemployment Rights Act (USERRA), 38 U.S.C. § 4301 et seq. Neb. Rev. Stat. § 79-2,115, et seq
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