

**TITLE IX AND OTHER DISCRIMINATION/HARASSMENT COMPLAINT  
PROCEDURE**

Any employee, student and/or the parents/guardian of any student or employee who believe they have been subject to discrimination or harassment on the basis of race, sex, marital status, sexual orientation, pregnancy, national origin, disability, criminal record, political activity, religion, or creed which in any way adversely affects their employment, access to, participation in, ability to benefit from, admissions, membership, or otherwise results in inequality in any school-sponsored organizations, clubs, facilities, activities, or programs, is encouraged to utilize the due process procedure set forth below as a mechanism to resolve his/her complaint.

**CIVIL RIGHTS COMPLIANCE OFFICER:** Big Horn County School District No. 1 designates the Superintendent, whose address is P.O. Box 688 Cowley, WY 82420, phone 307-548-2254, as the District's Civil Rights Compliance Officer for all civil rights issues, inclusive of disability not covered by the Section 504 Due Process Procedures. The Superintendent shall also act as the Title IX Coordinator. The Civil Rights Compliance Officer shall have responsibility to coordinate efforts to comply with and carry out responsibilities under Title IX, Title VII, and all other civil rights and discrimination laws, both state and federal. The Compliance Officer shall have responsibility to investigate any complaint communicated to the Compliance Officer alleging noncompliance or alleging any actions that would be prohibited by Section 504 of the Rehabilitation Act, Title II of the Americans with Disabilities Act, all civil rights laws, including both state and federal laws, in any way governing discrimination and/or harassment based upon a protected class. The District may designate a different person to carry out the duties of the 504 Compliance Officer.

**SECTION 504:**

With regard to any complaint involving identification, evaluation, or placement involving Section 504, you are entitled to receive notice of your student and parental rights regarding Section 504. The hearing procedures relating to identification, evaluation and/or placement under Section 504 can be found in the procedures entitled 504 Due Process Procedures (ACE-R).

**RECORDS:**

With regard to any claim involving harassment or discrimination, you shall also be given the opportunity to examine all relevant records. Documents submitted or utilized in the grievance procedure shall be retained for not less than two (2) years.

**NONRETALIATION:**

No retaliation (reprisal) of any kind shall be taken against any person participating in this grievance procedure either as a complainant, respondent or witness.

## **PROCEDURES:**

1. It is often possible to resolve complaints informally at the level at which the alleged discrimination occurred. Therefore, before a formal complaint is filed, the following informal procedure should be followed.
2. If a student feels he/she has been discriminated against or harassed or otherwise has a grievance pertaining to any state or federal nondiscrimination laws, the student and/or student's parents/guardian are encouraged to attempt to discuss the matter with the student's teacher in an effort to resolve the problem as expeditiously as possible. In some cases, such as allegations of sexual harassment by the teacher, discussing the complaint with the teacher who is alleged to have engaged in such conduct may not be appropriate. In such cases, the student and/or the student's parents may discuss their complaint with the principal as described below.
3. If after discussion with the teacher the student or student's parents/guardian are not satisfied with the disposition of the matter, he/she shall have the right to present the matter and discuss it with the principal.
4. Similarly, if any other employee of the District feels that he/she has been discriminated against or harassed, the employee is similarly encouraged to present the matter to the principal and discuss it with the principal or, if an administrator other than the principal is his/her supervisor, then with the appropriate administrator. The administrator shall, within ten (10) school days, investigate the matter and provide a written decision regarding the complaint, and if the complaint is determined to be valid, a proposed resolution to the complaint.
5. If the aggrieved student or employee is not satisfied with the disposition of his/her grievance by the principal or if no decision has been rendered within ten (10) school days after presentation of the grievance in writing, he/she may file a formal written complaint with the Compliance Officer for Big Horn County School District No. 1. At that stage the complainant will be required to elect to either proceed forward on an informal basis with the Compliance Officer conducting an impartial investigation and informal hearing or, alternatively, the complainant may request a formal hearing to be conducted before the Compliance Officer. If the Compliance Officer is alleged to not be impartial, the hearing shall be before the Superintendent of Schools; and if complainant asserts that neither is impartial, then the Superintendent shall appoint another person to act as the impartial hearing officer.

## **Informal Process:**

If the Complainant elects to utilize an informal hearing process, complainant will be required to execute a written waiver of formal hearing. The informal hearing process will allow the complainant to submit to the hearing officer all documents and information supporting complainant's position and also provide the hearing officer with the names of all witnesses that would support complainant's position. A copy of all information provided to the hearing officer will also be provided to the party alleged to have engaged in the harassment or discrimination. The hearing officer shall, within fifteen

(15) school days after receipt of the complaint, interview the complainant, the charged party, and any witnesses that either party believes have relevant information to the complaint or the defense thereof, as well as any other persons the hearing officer deems appropriate to interview. The hearing officer will give both the charging party and the responding party an opportunity to present their positions in the presence of each other and with the assistance of a representative, including legal counsel, as they deem appropriate. The oral presentation of the grievance shall occur not sooner than fifteen (15) school days or later than thirty (30) school days after the original complaint is filed. A formal written decision of the hearing officer will be provided to both parties together with a directive for resolving the matter if the complaint has been substantiated. The proposed resolution may include any disciplinary procedure against the student, up to and including expulsion, and may include any disciplinary procedure against a staff member, up to and including termination.

### **Formal Hearing Process:**

If complainant requests a formal hearing, complainant will notify the District's Compliance Officer, who will conduct the hearing, unless alleged to not be impartial, in which case the hearing officer will be the Superintendent unless he/she is alleged not to be impartial, in which case the hearing officer will be selected as provided for above. The complaint shall specify the basis of the claim providing names, dates and locations, to the extent available. Complainant shall also provide the name of any person, including legal counsel, who will assist or represent complainant. Upon receipt of a complaint and a request for formal hearing, the hearing officer shall notify the party being charged with the harassment or discrimination and provide his/her with a copy of the written complaint filed by the complainant. Within ten (10) school days, a meeting will be held between the complainant and/or his/her representatives and the individual against whom a claim of harassment or discrimination is asserted and/or his/her representatives for the purpose of selecting a hearing date. The hearing shall be held within thirty (30) school days from the date of that meeting. The parties shall also set a date to exchange documents, exhibits, and a list of proposed witnesses. The hearing shall be held and conducted generally in compliance with the Wyoming Administrative Procedures Act. The hearing shall be recorded in such a manner that it can be transcribed, if necessary.

The student, parent/guardian or employee asserting a charge of harassment or discrimination based upon protected classification shall be considered the petitioner and have the burden of proof. The charging party shall first present his/her evidence, after which the responding party shall present his/her evidence in defense thereof, after which the charging party may be permitted to reply. Both parties will have an opportunity to give an opening statement, to present evidence and call witnesses, cross-examine opposing witnesses, and thereafter present a closing statement. Each side may be requested, if represented by legal counsel, to present proposed findings of fact and conclusions of law. The hearing officer shall, within fifteen (15) school days following completion of the hearing, draft proposed findings of fact and conclusions of law rendering a decision on the claim, which findings and conclusions of law shall thereafter be delivered to both the charging party and the responding party. If the claim is substantiated, the conclusions shall include a recommended resolution to the complaint.

The Compliance/hearing Officer may at any time he/she deems it appropriate, engage the assistance of an attorney to assist in conducting the hearing.

**Appeal:**

Either the charging party or the respondent shall have the right to appeal the decision of the hearing officer to the Board of Trustees of Big Horn County School District No. 1. Any person desiring to appeal the decision of the Compliance/hearing Officer shall file with the Board of Trustees a notice of intent to appeal within ten (10) school days after receipt of the findings of fact and conclusions of law. For the purpose of determining receipt, the parties will be deemed to have received the findings of fact and conclusions of law two (2) days after they are placed in the mail to the address provided by the complainant or the responding party. A copy of the notice of appeal must be delivered to the Board of Trustees, the District's Compliance Officer, and the other party to the complaint. Thereafter, the party desiring an appeal shall file with the Board of Trustees within ten (10) school days, a written memorandum explaining the basis of the appeal and the reason the appealing party is asking the Board of Trustees to reverse the decision of the hearing officer. A copy of this memorandum shall be served upon the other party to the complaint, who shall then have ten (10) school days to file a response. The Board of Trustees of the School District shall within thirty (30) days after receipt of the final memorandum, meet to review the matter. At its sole discretion the Board of Trustees may request the parties to appear and present a verbal argument or, alternatively, may decide the matter on the basis of the evidence presented to the hearing officer, the findings of fact and conclusions of law rendered by the hearing officer, and the memoranda presented by the parties. At its option the Board may also request the hearing officer to explain any decisions rendered. The Board shall render a written decision on the appeal to all parties within twenty (20) school days after the meeting of the Board of Trustees at which the appeal is considered. The Board may authorize and direct the Chairman or Vice Chairman to sign off on the written decision decided upon by the Board of Trustees without the requirement of an additional meeting.

**Appeal to District Court:**

The decision of the hearing officer as reviewed by the Board of Trustees may be appealed to the appropriate District Court within and for the State of Wyoming as provided for the appeal of administrative decisions in the Wyoming Rules of Appellate Procedure.

**Limitations:**

Any student, parent or employee who believes the student or employee has been discriminated against or harassed based upon their protected classification, must initiate the complaint procedure at least at the principal level within sixty (60) calendar days after the student or employee knew or should have known of the act or condition on which the complaint is based, the complaint shall be considered as having been waived if the hearing process has not been initiated. In the case of a continuing discrimination or harassment, the complaint must be filed within sixty (60) calendar days of the last incident of harassment or discrimination.

**Agency Contacts:**

Persons with complaints involving harassment and/or discrimination may also contact the Wyoming Department of Education, Office for Civil Rights Coordinator, 2<sup>nd</sup> Floor,

Hathaway Building, Cheyenne, WY 82002-0050 or 307-777-6198 or the Office for Civil Rights, Region VIII, U.S. Department of Education, Federal Building, Suite 310, 1244 Speer Blvd., Denver, CO 80204-3582 or 303-844-3417 or the Wyoming Department of Employment at 1510 E. Pershing Blvd., Room 150, Cheyenne, WY 82002, 307-777-7261.

Adopted: January 11, 2011