

To: Board of Education

From: Anna Stubblefield, assistant superintendent, educational support & equity, ext. 1760  
David Cunningham, executive director, human resources & legal counsel, ext. 4937

Re: Board Policy Committee Recommendations – Final Action

Date: April 20, 2017

Background:

The Board of Education's policy committee began discussing policies pertaining to harassment and discrimination in 2016. The conversation started with questions about the impact of the Confederate flag and various forms of discrimination including micro-aggressions. The committee input from the District Equity Leadership Team and building administrators to develop the proposed changes were brought to the board for review on April 10, 2016. An important factor in the recommendations submitted for consideration were amendments that were all-inclusive yet understandable with a more streamlined and simple complaint procedure. Stronger anti-discrimination policies demonstrate the board's and administration's commitment to address discrimination, harassment, and bullying. An improved complaint procedure will help those who experience acts of discrimination, harassment, or bullying with a process to have their grievance addressed.

The committee recommended the board eliminate one policy and amend three policies.

Policies Recommended for Amendment:

**GAAB Prohibition Against Discrimination and Harassment**

The committee is recommending GAAB be amended to strengthen and more clearly articulate the board's ongoing commitment to addressing discrimination and harassment in the personnel section of board policy. Recent information brought to the district highlights the need to ensure all policies are broad in their application prohibiting discrimination and harassment. The committee recommends combining two policies (GAAB and GAAC) so both discrimination and harassment are addressed together.

The policy committee has reviewed all anti-discrimination policies to ensure they are clear and specifically state the board's commitment to maintaining a working and learning environment free from discriminatory harassment.

**JGEC Prohibition Against Discrimination and Harassment**

The committee recommends amendments to JGEC to strengthen and more clearly articulate the board's ongoing commitment to addressing discrimination and harassment in the student section of board policy. Recent information brought to the district highlights the need to ensure all policies are broad in their application prohibiting discrimination and harassment. The policy committee has reviewed the existing policy and updated it to ensure it is clear and specifically states the board's commitment to maintaining a learning environment free from discriminatory harassment.

**KNA Complaints About Discrimination, Harassment, Hazing, or Bullying**

The committee is recommending the existing KNA be completely replaced with a more simple and clear procedure to file a complaint. The existing policy is difficult to follow with respect to how one can appeal decisions with which a complainant disagrees. It is important to have an informal procedure for complaints to be resolved at the building level and the recommended changes ensure complaints are addressed at the lowest appropriate level first with the ability to file an appeal and seek a formal review at the district level. The formal process consists of an investigation and decision by the District Compliance Coordinator that is appealable to the Superintendent and Board of Education.

Policy Recommended for Elimination:

**GAAC Harassment**

This policy is recommend for elimination because its provisions have been incorporated into the amended GAAB.

Recommendation:

The Board Policy Committee recommends final approval for **GAAB Prohibition Against Discrimination and Harassment**, **JGEC Prohibition Against Discrimination and Harassment**, and **KNA Complaints About Discrimination, Harassment, Hazing, or Bullying** for the reasons set forth. The Board Policy Committee recommends the elimination of **GAAC Harassment**.

Motion:

"I move the Board of Education approve Board Policies **GAAB Prohibition Against Discrimination and Harassment**, **JGEC Prohibition Against Discrimination, and Harassment**, and **KNA Complaints About Discrimination, Harassment, Hazing, or Bullying** and the elimination of **GAAC Harassment**."

**GAAB Prohibition Against Discrimination and Harassment** (See GAAA,  
GAAD, GAAE, JGEC, JGECA, KN, KNA) **GAAB**

1           The board of education is committed to providing a positive and  
2 productive working and learning environment, free from any discrimination  
3 and/or harassment on the basis of race, color, religion, sex, age, national  
4 origin, disability, sexual orientation, gender identity, or gender expression.  
5 Such conduct against any individual is prohibited by federal and state law or  
6 district policy and shall not be tolerated. Discrimination and/or harassment  
7 may include, but are not limited to, offensive comments or actions com-  
8 municating hostile or derogatory slights or insults. Nondiscrimination re-  
9 quirements are contained in Title VI and Title VII of the Civil Rights Act of  
10 1964, Title IX of the Education Amendments of 1972, Section 504 of the  
11 Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the  
12 ADA Amendments Act of 2008, and the Kansas Act Against Discrimination.

13           Discrimination or harassment of employees of the district by board  
14 members, administrators, certified or other employees, students, vendors,  
15 volunteers and any others having business with the school district is strictly  
16 prohibited. All forms of discriminatory harassment are prohibited at district  
17 facilities, district premises, and non-district property if at any district spon-  
18 sored, district-approved, or district-related activity, program, or event, or  
19 where an employee is engaged in district business.

20           Discrimination

21           Discrimination is conduct which affords an employee different  
22 treatment solely on the basis of race, color, religion, sex, age, national  
23 origin, disability, sexual orientation, gender identity, or gender expression.

1           Harassment

2           Harassment occurs when the conduct is sufficiently severe, perva-  
3 sive, or persistent so as to have the purpose or effect of interfering with an  
4 employee's work performance or limiting employment opportunities. Har-  
5 assment may result from verbal, physical, or psychological conduct, or writ-  
6 ten material.

7           Sexual Harassment

8           Sexual harassment may result from verbal, physical, or psychologi-  
9 cal conduct, or written material. Sexual harassment may include, but is not  
10 limited to: verbal harassment or abuse; unwelcome advances or pressure for  
11 sexual activity; the request for sexual favors; repeated remarks to a person,  
12 with sexual or demeaning implication; unwelcome touching; suggesting or  
13 demanding sexual involvement; implied or explicit threats concerning an  
14 employee's job status or performance; or other inappropriate conduct of a  
15 sexual nature.

16           Sexual harassment occurs when these acts are committed by an em-  
17 ployee to a student, or to another employee when submission to or rejection  
18 of such conduct explicitly or implicitly:

- 19           • has the effect of interfering with a student's performance or ability to  
20           participate in or benefit from the services, activities, or programs of  
21           school; or
- 22           • is made a term or condition of the individual's employment or used as  
23           the basis for other employment decisions affecting that individual; or

- has the purpose or effect of interfering with an individual's academic or job performance or creating an intimidating, hostile or offensive academic or working environment.

#### Reporting Discrimination and/or Harassment

The Superintendent of Schools shall designate a District Compliance Coordinator to coordinate compliance with nondiscrimination requirements.

Any employee who witnesses an act of discrimination or harassment shall promptly report the incident to their supervisor or the District Compliance Coordinator for investigation and corrective action. Failure to report may subject the employee to disciplinary action. Administrators who fail to take appropriate corrective action in response to complaints of harassment may also face disciplinary action.

Complaints of discrimination or harassment should be addressed to the District Compliance Coordinator, and will be resolved using the district's discrimination complaint procedures. (See KNA). Complaints against the Superintendent should be addressed to the Board of Education. If discrimination or harassment has occurred, the district will take prompt, remedial action to prevent its reoccurrence.

Complaints received will be investigated to determine whether, under the totality of the circumstances, the alleged behavior constitutes discrimination or harassment under the definitions outlined above. Unacceptable employee conduct may or may not constitute discrimination or harassment, depending on the nature of the conduct and its severity, pervasiveness, and persistence. Behaviors that are unacceptable but do not constitute

1 discrimination or harassment may be grounds for discipline, up to and in-  
2 cluding termination. Any employee who engages in discriminating conduct  
3 shall be subject to disciplinary action, up to and including termination.

4 It shall also be a violation for any employee or student to discour-  
5 age an employee from reporting or filing a complaint, or for any employee  
6 to fail to refer for investigation, any complaint lodged under the provisions  
7 of this policy. False or malicious complaints of harassment may result in  
8 corrective or disciplinary action against the complainant.

9 When a complaint contains evidence of criminal activity or child  
10 abuse, the District Compliance Coordinator shall report such conduct to the  
11 appropriate law enforcement agency or the Kansas Department for Children  
12 and Families. (See GAAD)

13 The filing of a complaint or otherwise reporting discrimination or  
14 harassment shall not reflect upon the employee's status. Any act of retalia-  
15 tion or discrimination against any person who has filed a complaint or testi-  
16 fied, assisted, or participated in an investigation, proceeding, or hearing in-  
17 volving a discrimination or harassment complaint is prohibited. Any person  
18 who retaliates is subject to immediate disciplinary action, up to and includ-  
19 ing expulsion for a student or termination of employment for an employee.

20 To the extent reasonably possible confidentiality will be maintained  
21 throughout the investigation of a complaint. The desire for confidentiality  
22 must be balanced with the district's obligation to conduct a thorough inves-  
23 tigation and to take appropriate corrective action.

24 The district's non-discrimination statement shall be included in the  
25 Annual Notices section of the district newsletter which is published in the

- 1 local newspaper at the beginning of each school year. A copy of this policy
- 2 shall be available at each district facility, and a summary of this policy
- 3 shall be included in employee handbooks.

Approved: July 1, 2001

Reviewed by Board Policy Committee: April 21, 2003

Amended: June 2, 2003

Reviewed by Board Policy Committee: August 15, 2005

Amended: September 12, 2005

Amended: May 14, 2007

Reviewed by Board Policy Committee: September 3, 2008

Amended: October 13, 2008

Reviewed by Board Policy Committee: October 7, 2009

Amended: November 23, 2009

Amended: November 9, 2015

Amended: April 24, 2017

**JGEC Prohibition Against Discrimination and Harassment**

1           The board of education is committed to providing a positive and  
2 productive working and learning environment, free from any discrimination  
3 and/or harassment on the basis of race, color, religion, sex, age, national  
4 origin, disability, sexual orientation, gender identity, or gender expression.  
5 Such conduct against any individual is prohibited by federal and state law or  
6 district policy and shall not be tolerated. Discrimination and/or harassment  
7 may include, but are not limited to, offensive comments or actions com-  
8 municating hostile or derogatory slights or insults. Nondiscrimination re-  
9 quirements are contained in Title VI and Title VII of the Civil Rights Act of  
10 1964, Title IX of the Education Amendments of 1972, Section 504 of the  
11 Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the  
12 ADA Amendments Act of 2008, and the Kansas Act Against Discrimination.

13           Discrimination or harassment of students by board members, adminis-  
14 trators, certified or other employees, students, vendors, volunteers and any  
15 others having business with the school district is strictly prohibited. All  
16 forms of discriminatory harassment are prohibited at district facilities, dis-  
17 trict premises, and non-district property if at any district sponsored, dis-  
18 trict-approved, or district-related activity, program, or event, or where an  
19 employee is engaged in district business.

20           Discrimination

21           Discrimination is conduct which affords a student different treat-  
22 ment solely on the basis of race, color, religion, sex, age, national origin,  
23 disability, sexual orientation, gender identity, or gender expression.



1           Harassment

2           Harassment occurs when the conduct is sufficiently severe, perva-  
3 sive, or persistent so as to have the purpose or effect of interfering with or  
4 limiting the ability of the student to participate in or benefit from the ser-  
5 vices, activities, or programs of the school. Harassment may result from  
6 verbal, physical, or psychological conduct, or written material.

7           Sexual Harassment

8           Sexual harassment may result from verbal, physical, or psychologi-  
9 cal conduct, or written material. Sexual harassment may include, but is not  
10 limited to: verbal harassment or abuse; unwelcome advances or pressure for  
11 sexual activity; the request for sexual favors; repeated remarks to a person,  
12 with sexual or demeaning implication; unwelcome touching; suggesting or  
13 demanding sexual involvement; implied or explicit threats; or other inappro-  
14 priate conduct of a sexual nature.

15           Sexual harassment occurs when these acts are committed by an em-  
16 ployee to a student, or student to another student, when submission to or re-  
17 jection of such conduct explicitly or implicitly has the effect of interfering  
18 with a student's performance or ability to participate in or benefit from dis-  
19 trict or school services, activities, or programs.

20           Reporting Discrimination and/or Harassment

21           The Superintendent of Schools shall designate a District Compli-  
22 ance Coordinator to coordinate compliance with nondiscrimination require-  
23 ments.

24           Any employee who witnesses an act of discrimination or harassment  
25 shall promptly report the incident to their supervisor or the District Compli-

1    ance Coordinator for investigation and corrective action. Failure to report  
2    may subject the employee to disciplinary action. Administrators who fail to  
3    take appropriate corrective action in response to complaints of harassment  
4    may also face disciplinary action.

5           Complaints of discrimination or harassment should be addressed to  
6    the District Compliance Coordinator, and will be resolved using the dis-  
7    trict's discrimination complaint procedures. (See KNA). Complaints against  
8    the Superintendent should be addressed to the Board of Education. If dis-  
9    crimination or harassment has occurred, the district will take prompt, reme-  
10   dial action to prevent its reoccurrence.

11           Complaints received will be investigated to determine whether, un-  
12   der the totality of the circumstances, the alleged behavior constitutes dis-  
13   crimination or harassment under the definitions outlined above. Unaccepta-  
14   ble employee conduct may or may not constitute discrimination or harass-  
15   ment, depending on the nature of the conduct and its severity, pervasive-  
16   ness, and persistence. Behaviors that are unacceptable but do not constitute  
17   discrimination or harassment may be grounds for discipline, up to and in-  
18   cluding termination. Any employee who engages in discriminating conduct  
19   shall be subject to disciplinary action, up to and including termination.

20           It shall also be a violation for any employee or student to discour-  
21   age an employee or student from reporting or filing a complaint, or for any  
22   employee to fail to refer for investigation, any complaint lodged under the  
23   provisions of this policy. False or malicious complaints of harassment may  
24   result in corrective or disciplinary action against the complainant.

1           When a complaint contains evidence of criminal activity or child  
2 abuse, the District Compliance Coordinator shall report such conduct to the  
3 appropriate law enforcement agency or the Kansas Department for Children  
4 and Families. (See GAAD)

5           The filing of a complaint or otherwise reporting discrimination or  
6 harassment shall not reflect upon the employee's or student's status. Any  
7 act of retaliation or discrimination against any person who has filed a com-  
8 plaint or testified, assisted, or participated in an investigation, proceeding,  
9 or hearing involving a discrimination or harassment complaint is prohibited.

10          Any person who retaliates is subject to immediate disciplinary action, up to  
11 and including expulsion for a student or termination of employment for an  
12 employee.

13          To the extent reasonably possible confidentiality will be maintained  
14 throughout the investigation of a complaint. The desire for confidentiality  
15 must be balanced with the district's obligation to conduct a thorough inves-  
16 tigation and to take appropriate corrective action.

17          The district's non-discrimination statement shall be included in the  
18 Annual Notices section of the district newsletter which is published in the  
19 local newspaper at the beginning of each school year. A copy of this policy  
20 shall be available at each district facility, and a summary of this policy  
21 shall be included in employee handbooks.

Approved: July 1, 2001

Reviewed by Board Policy Committee: November 29, 2004

Amended: March 14, 2005

Amended: May 14, 2007

Reviewed by Board Policy Committee: April 9, 2008

Amended: May 27, 2008

Amended: October 28, 2013

Amended: April 24, 2017

1           The board encourages complaints alleging acts of discrimination, harassment, hazing, or bullying  
2 by an employee, student, or third party to be presented to the supervisor, department administrator, or  
3 building principal to allow for resolution without the need for a formal complaint. If the complainant is  
4 not satisfied with the resolution, a formal complaint may be initiated using the procedures outlined in this  
5 policy.

6           The Superintendent of Schools shall designate a District Compliance Coordinator to receive and  
7 manage formal complaints alleging acts of discrimination, harassment, hazing or bullying by an  
8 employee, student, or third party. Such complaints may be filed directly with the District Compliance  
9 Coordinator, supervisor, department administrator, or building principal. If the formal complaint is not  
10 filed directly with the District Compliance Coordinator, the supervisor, department administrator, or  
11 building principal shall provide the formal complaint to the District Compliance Coordinator within five  
12 (5) working days.

13           The District Compliance Coordinator shall determine whether to conduct or assign the  
14 investigation and resolution of the complaint. If assigned, the designee shall investigate and make a  
15 determination as to the complaint's validity and resolution.

16           Investigation and Resolution Procedures

17           The District Compliance Coordinator or designee shall conduct an investigation in accordance  
18 with the following procedures:

- 19           1. Review the complaint;
- 20           2. Interview the complainant and appropriate witnesses;
- 21           3. Determine appropriate resolution; and,
- 22           4. Communicate resolution to complainant.

23           The investigator shall contact the complainant within ten (10) calendar days of receiving the complaint.

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1 Appeal Procedures

2           If the complainant is not satisfied with the resolution, an appeal may be filed with the District  
3 Compliance Coordinator. Complainant must file the appeal within ten (10) calendar days of receiving the  
4 resolution. The District Compliance Coordinator may extend the filing deadline for good cause.

5           The District Compliance Coordinator shall determine the appropriate level to which the appeal is  
6 assigned. Appeals from the department or building level shall be investigated and resolved by the District  
7 Compliance Coordinator. Appeals from the District Compliance Coordinator shall be investigated and  
8 resolved by the Superintendent. Appeals from the Superintendent shall be investigated and resolved by  
9 the board of education or the board's designee. If the board appoints a designee to investigate the  
10 complaint, such designee shall provide the board a recommendation which the board shall adopt or revise  
11 as the board, in its sole discretion, determines appropriate. Appeals must be investigated and resolved  
12 within forty-five (45) days of the date the complainant files the appeal with the District Compliance  
13 Coordinator.

Approved: April 24, 2017