

# NONDISCRIMINATION AND ACCESS TO EQUAL EDUCATIONAL OPPORTUNITY

Reference: MCL 380.1146, 380.1704, 37.1101 et seq., 37.2402, 37.1402, 37.2101-37.2804  
Fourteenth Amendment, U.S. Constitution  
20 USC Section 1681, Title IX of Education Amendments Act  
20 USC Section 1701 et seq., Equal Educational Opportunities Act of 1974  
20 USC Section 7905, Boy Scouts of America Equal Access Act  
29 USC Section 794, Rehabilitation Act of 1973, as amended  
29 CFR Part 1635  
42 USC Section 2000d et seq., Civil Rights Act of 1964  
42 USC Section 2000ff et seq., The Genetic Information Nondiscrimination Act  
42 USC 6101 et seq., Age Discrimination Act of 1975  
34 CFR Part 110 (7/27/93)  
Vocational Education Program Guidelines for Eliminating Discrimination and Denial of Services, Department of Education, Office of Civil Rights, March 1979  
42 USC 12101 et seq., The Americans with Disabilities Act of 1990, as amended  
Title III of the No Child Left Behind Act of 2001

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

As such, the Board of Directors does not discriminate on the basis of race, color, national origin, sex ( ) (including sexual orientation or transgender identity), disability, age (except as authorized by law), religion, military status, ancestry or genetic information in its educational programs or activities and will not permit discrimination in any of these categories.

The Board also does not discriminate in its employment policies and practices as they relate to students, and does not tolerate harassment of any kind. The Board will not permit discrimination of the employment practices as they relate to students, and will not tolerate harassment of any kind.

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

In order to achieve the aforesaid goal, **the Principal** shall complete the following actions annually:

A. Curriculum Content

review current and proposed courses of study and textbooks to detect any bias based ascertaining whether or not supplemental materials, singly or taken as a

whole, fairly depict the contribution of both genders, various races, ethnic groups, etc. toward the development of human society;

B. Staff Training

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

C. Student Access

1. review current and proposed programs, activities, facilities, and practices to ensure that all students have equal access thereto and are not segregated in any duty, work, play, classroom, or school practice, except as may be permitted under State regulations;
2. verify that facilities are made available, in accordance with Board Policy 7510 - Use of Academy Facilities, for non-curricular student activities that are initiated by parents or other members of the community, including but not limited to any group affiliated with the Boy Scouts of America or any other youth group listed in Title 36 of the United States Code as a patriotic society;

This language does not prohibit the Academy from establishing and maintaining a single-gender school, class, or program within a school if a comparable school, class, or program is made available to students of each gender.

D. Academy Support

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

E. Student Evaluation

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

The Academy will accommodate the use of certified service animals when there is an established need for such supportive aid in the school environment. Certain restrictions may be applied when necessary due to allergies, health, safety, disability or other issues of those in the classroom or school environment. The goal shall be to provide all students with the same access and participation opportunities provided to other students in school. Confirmation of

disability, need for a service animal to access the school programming, and current certification/training of the service animal may be required.

The **Principal or Principal Designee** are responsible for coordinating the Academy's efforts to comply with applicable Federal and State laws and regulations, including the Academy's duty to address in a prompt and equitable manner any inquiries or complaints regarding discrimination, retaliation or denial of equal access. The **Principal or Principal Designee** shall also verify that proper notice of nondiscrimination for Title II of the Americans with Disabilities Act (as amended), Title VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendment Act of 1972, Section 504 of the Rehabilitation Act of 1973 (as amended), and the Age Discrimination Act of 1975 is provided to students, their parents, staff members, and the general public. A copy of each of the Acts and regulations on which this notice is based may be found in the **Principal or Principal Designee** office.

The **Principal (as employed by the Board)** shall annually attempt to identify children with disabilities, ages 0-25, who do not receive a public education.

In addition, s/he shall establish procedures to identify students who are Limited English Proficient (LEP), including immigrant children and youth, to assess their ability to participate in Academy programs, and develop and administer a program that meets the English language and academic needs of these students. This program shall include procedures for student placement, services, evaluation and exit guidelines and shall be designed to provide students with effective instruction that leads to academic achievement and timely acquisition of proficiency in English. As a part of this program, the Academy will evaluate the progress of students in achieving English language proficiency in the areas of listening, speaking, reading and writing, on an annual basis (also see Policy 2225).

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

Students and all other members of the Academy community and third parties are encouraged to promptly report incidents of unlawful discrimination and/or retaliation to a teacher, administrator, supervisor, or other Academy official so that the Board may address the conduct. Any teacher, administrator, supervisor, or other Academy employee or official who receives such a complaint shall file it with the **Principal or Principal Designee** at his/her first convenience or within two (2) school days.

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

If, during an investigation of alleged bullying, aggressive behavior and/or harassment in accordance with Policy 5517.01 – Bullying and Other Forms of Aggressive Behavior, the **Principal** believes that the reported misconduct may constitute unlawful discrimination based

on a Protected Class, the **Principal** shall report the act to one of the **Principal Designee's** who shall investigate the allegation in accordance with this policy. While the **Principal Designee** investigates the allegation, the **Principal** shall suspend his/her Policy 5517.01 investigation to await the **Principal Designee** written report. The **Principal Designee** shall keep the **Principal** informed of the status of the Policy 2260 investigation and provide him/her with a copy of the resulting written report.

The **Principal or Principal Designee** will be available during regular school/work hours to discuss concerns related to unlawful discrimination/retaliation. **Principal or Principal Designee** shall accept complaints of unlawful discrimination/retaliation directly from any member of the Academy community or a visitor to the Academy, or receive complaints that are initially filed with a school building administrator. Upon receipt of a complaint either directly or through a school building administrator, a **Principal or Principal Designee** will begin either an informal or formal process (depending on the request of the person alleging the discrimination/retaliation or the nature of the alleged discrimination/retaliation), or the **Principal or Principal Designee** will designate a specific individual to conduct such a process. The **Principal or Principal Designee** will provide a copy of this policy to any person who files a complaint. In the case of a formal complaint, the **Principal or Principal Designee** will prepare recommendations for the **Principal or Principal Designee** or oversee the preparation of such recommendations by a designee. All members of the Academy community must report incidents of discrimination/retaliation that are reported to them to the **Principal or Principal Designee** within two (2) business days of learning of the incident/conduct.

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

#### Investigation and Complaint Procedure

Any student who believes that s/he has been subjected to unlawful discrimination or retaliation may seek resolution of his/her complaint through the procedures described below. The formal complaint procedures involve an investigation of the individual's claims and a process for rendering a decision regarding whether the charges are substantiated.

Due to the sensitivity surrounding complaints of unlawful discrimination or retaliation, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs. Once the formal

complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within fifteen (15) business days of the complaint being received).

The procedures set forth below are not intended to interfere with the rights of a student to pursue a complaint of unlawful discrimination or retaliation with the United States Department of Education Office for Civil Rights ("OCR"). The Nearest Office of the OCR can be reached at:

Washington DC (Metro)  
Office for Civil Rights  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202-1475

Telephone: 202-453-6020  
FAX: 202-453-6021; TDD: 800-877-8339  
Email: [OCR.DC@ed.gov](mailto:OCR.DC@ed.gov)

### Informal Complaint Procedure

The goal of the informal complaint procedure is to quickly stop inappropriate behavior and facilitate resolution through an informal means, if possible. The informal complaint procedure is provided as a less formal option for a student who believes s/he has been unlawfully discriminated or retaliated against. This informal procedure is not required as a precursor to the filing of a formal complaint.

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

Students who believe that they have been unlawfully discriminated/retaliated against may proceed immediately to the formal complaint process and individuals who seek resolution through the informal procedure may request that the informal process be terminated at any time to move to the formal complaint process.

All complaints involving an Academy employee or any other adult member of the Academy community against a student will be formally investigated.

As an initial course of action, if a student feels that s/he is being unlawfully discriminated/retaliated against and s/he is able and feels safe doing so, the individual should tell or otherwise inform the person who engaged in the allegedly discriminatory/retaliatory conduct that it is inappropriate and must stop. The complaining individual should address the alleged misconduct as soon after it occurs as possible. The **Principal or Principal Designee** is available to support and counsel individuals when taking this initial step or to intervene on behalf of the individual if requested to do so. An individual who is uncomfortable or unwilling to inform the person who allegedly engaged in the unlawful conduct of his/her concerns is not prohibited from otherwise filing an informal or a formal complaint. In addition, with regard to certain types

of unlawful discrimination, such as sexual discrimination, the **Principal or Principal Designee** may advise against the use of the informal complaint process.

A student who believes s/he has been unlawfully discriminated/retaliated against may make an informal complaint, either orally or in writing: (1) to a **teacher**, other **employee**, or building **administrator** in the school the student attends; (2) to the **Principal or Principal Designee**.

All informal complaints must be reported to one of the **Principal or Principal Designee** who will either facilitate an informal resolution as described below, or appoint another individual to facilitate an informal resolution.

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

- A. Advising the student about how to communicate his/her concerns to the person who allegedly engaged in the discriminatory/retaliatory behavior.
- B. Distributing a copy of Policy 2260 – Non-Discrimination as a reminder to the individuals in the school building or office where the individual whose behavior is being questioned works or attends.
- C. If both parties agree, the **Principal or Principal Designee** may arrange and facilitate a meeting between the student claiming discrimination/retaliation and the individual accused of engaging in the misconduct to work out a mutual resolution.

While there are no set time limits within which an informal complaint must be resolved, the **Principal or Principal Designee** or designee will exercise his/her authority to attempt to resolve all informal complaints within fifteen (15) business days of receiving the informal complaint. Parties who are dissatisfied with the results of the informal complaint process may proceed to file a formal complaint. And, as stated above, parties may request that the informal process be terminated at any time to move to the formal complaint process.

All materials generated as part of the informal complaint process will be retained by the **Principal or Principal Designee** in accordance with the Board's records retention policy and/or Student records policy. (See Policy 8310 and Policy 8330)

### Formal Complaint Procedure

If a complaint is not resolved through the informal complaint process, if one (1) of the parties requested that the informal complaint process be terminated to move to the formal complaint

process, or if the student elects to file a formal complaint initially, the formal complaint process shall be implemented.

A student who believes s/he has been subjected to unlawful discrimination/retaliation (hereinafter referred to as the "Complainant") may file a formal complaint, either orally or in writing, with a teacher, Principal, or another employee who works at another school or at the Academy level. Due to the sensitivity surrounding complaints of unlawful discrimination, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs. If a Complainant informs a teacher, Principal, or other employee at the student's school either orally or in writing, about any complaint of discrimination/retaliation, that employee must report such information to the **Principal or Principal Designee** within two (2) business days.

Throughout the course of the process, the **Principal or Principal Designee** should keep the parties informed of the status of the investigation and the decision-making process.

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

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

Upon receiving a formal complaint, the **Principal or Principal Designee** will consider whether any action should be taken in the investigatory phase to protect the Complainant from further discrimination or retaliation, including, but not limited to, a change of work assignment or schedule for the Complainant and/or the person alleged to have engaged in the misconduct. In making such a determination, the **Principal or Principal Designee** should consult the Complainant to assess his/her agreement to the proposed action. If the Complainant is unwilling to consent to the proposed change, the **Principal or Principal Designee** may still take whatever actions s/he deems appropriate in consultation with the **The School Board or Board Appointed Designee**.

Within two (2) business days of receiving the complaint, the **Principal or Principal Designee** will initiate a formal investigation to determine whether the Complainant has been subjected to unlawful discrimination/retaliation.

Simultaneously, the **Principal or Principal Designee** will inform the individual alleged to have engaged in the discriminatory or retaliatory conduct (hereinafter referred to as the "Respondent") that a complaint has been received. The Respondent will be informed about the nature of the allegations and provided with a copy of any relevant policies and/or administrative

guidelines, including Policy 2260 - Nondiscrimination. The Respondent must also be informed of the opportunity to submit a written response to the complaint within five (5) business days.

Although certain cases may require additional time, the **Principal or Principal Designee** will attempt to complete an investigation into the allegations of discrimination/retaliation within fifteen (15) business days of receiving the formal complaint. The investigation will include:

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

At the conclusion of the investigation, the **Principal or Principal Designee** shall prepare and deliver a written report to the **Principal** that summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful discrimination/retaliation as provided in Board policy and State and Federal law as to whether the Complainant has been subjected to unlawful discrimination/retaliation. The **Principal or Principal Designee** recommendations must be based upon the totality of the circumstances, including the ages and maturity levels of those involved. In determining if unlawful discrimination or retaliation occurred, a preponderance of evidence standard will be used. The **Principal or Principal Designee** may consult with the Board's legal counsel before finalizing the report to the **Board of Directors**

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

If the **Principal** requests additional investigation, the **Principal** must specify the additional information that is to be gathered, and such additional investigation must be completed within five (5) days. At the conclusion of the additional investigation, the **Principal** shall issue a final written decision as described above.

If the **Principal** determines the Complainant was subjected to unlawful discrimination/retaliation, s/he must identify what corrective action will be taken to stop, remedy, and prevent the



recurrence of the discrimination/retaliation. The corrective action should be reasonable, timely, age-appropriate and effective, and tailored to the specific situation.

A Complainant or Respondent who is dissatisfied with the final decision of the **Principal** may appeal through a signed written statement to the Board within five (5) business days of his/her receipt of the **Principal's** final decision.

In an attempt to resolve the complaint, the Board shall meet with the concerned parties and their representatives within twenty (20) business days of the receipt of such an appeal. A copy of the Board's disposition of the appeal shall be sent to each concerned party within ten (10) business days of this meeting. The decision of the Board will be final.

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

The Complainant may be represented, at his/her own cost, at any of the above described meetings/hearings.

The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a Complaint with the Office for Civil Rights or the filing of a court case. Use of this internal complaint procedure is not a prerequisite to the pursuit of other remedies.

#### Privacy/Confidentiality

The Academy will employ all reasonable efforts to protect the rights of the Complainant, the Respondent(s), and the witnesses as much as possible, consistent with the Board's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations. All records generated under the terms of this policy shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed. All Complainants proceeding through the formal investigation process will be advised that their identities may be disclosed to the Respondent(s).

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

All records created as a part of an investigation of a complaint of discrimination/retaliation will be maintained by the **Principal or Principal Designee** in accordance with the Board's records retention policy. Any records that are considered student education records in accordance with

the *Family Educational Rights and Privacy Act* or under South Carolina's student records law will be maintained in a manner consistent with the provisions of the Federal and State law.

### Sanctions and Monitoring

The Board shall vigorously enforce its prohibitions against unlawful discrimination/retaliation by taking appropriate action reasonably calculated to stop and prevent further misconduct. While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable State law and the terms of the relevant collective bargaining agreement(s). When imposing discipline, the **Principal** shall consider the totality of the circumstances involved in the matter, including the ages and maturity levels of those involved. In those cases where unlawful discrimination/retaliation is not substantiated, the Board may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies, consistent with the terms of the relevant collective bargaining agreement(s).

Where the Board becomes aware that a prior remedial action has been taken against a member of the Academy community, all subsequent sanctions imposed by the Board and/or **Principal** shall be reasonably calculated to end such conduct, prevent its reoccurrence, and remedy its effects.

### Retaliation

Retaliation against a person who makes a report or files a complaint alleging unlawful discrimination, or participates as a witness in an investigation is prohibited. Specifically, the Board will not retaliate against, coerce, intimidate, threaten or interfere with any individual because the person opposed any act or practice made unlawful by any Federal or State civil rights law, or because that individual made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under those laws, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws.

### Education and Training

In support of this policy, the Board promotes preventative educational measures to create greater awareness of unlawful discriminatory practices. The **Principal or Principal Designee** or designee shall provide appropriate information to all members of the Academy community related to the implementation of this policy and shall provide training for Academy students and

staff where appropriate. All training, as well as all information, provided regarding the Board's policy and discrimination in general, will be age and content appropriate.

The Academy will endeavor to assist the student and/or his/her parents in their access to Academy programs by providing notices to the parents and students in a language and format that they are likely to understand.

Materials approved by the State Department of Education describing the benefits of instruction in Braille reading and writing shall be provided to each blind student's individualized planning committee. The Academy shall not deny a student the opportunity for instruction in Braille, reading, and writing solely because the student has some remaining vision.