

# NONDISCRIMINATION & ANTI-HARASSMENT POLICY

## General Prohibitions

The Minot Public School District is committed to maintaining a learning and working environment free from discrimination and harassment in all employment and educational programs, activities, and facilities. The District prohibits discrimination and harassment based on a student's, parent's, guardian's, or employee's race, color, religion, sex, gender identity, national origin, ancestry, disability, age, or other status protected by law. The District also provides equal access to the Boy Scouts and other designated youth groups, as required by federal law.

It is a violation of this policy for any district student, parent, guardian, employee, or third party to harass or discriminate against another district student or employee, based on any status protected by law, if the conduct occurred within the context of an education program or activity, or if the conduct had a continuing effect in the educational setting of a program or activity occurring on or off school district property. The District will not tolerate harassment or discrimination of a district student or employee by a third party. The District also prohibits aiding, abetting, inciting, compelling, or coercing discrimination or harassment; discriminating against or harassing any individual affiliated with another who is protected by this policy and/or law; knowingly making a false discrimination and/or harassment report; and retaliation against individuals who report and/or participate in a discrimination and/or harassment investigation, including instances when a complaint is not substantiated.

The District shall promptly investigate any harassment, discrimination or retaliation complaint and act on findings as appropriate, or as required by law. Outcomes may include disciplinary measures such as, but not limited to, termination of employment or expulsion in accordance with board policy, law, and, when applicable, the negotiated agreement. Students and employees are expected to fully cooperate in the investigation process. The District will take steps to try and prevent recurrence of harassment, discrimination or retaliation and remedy discriminatory effects on the complainant and others, if appropriate.

## Definitions

- Complainant is the individual filing the complaint. When the complainant is not the victim of the alleged harassment and/or discrimination, the victim will be

afforded the same rights as the complainant under this policy and regulations AAC-BR1 or AAC-BR2.

- Disability is defined in accordance with NDCC 14-02.4-02 (5).
- Discrimination means failure to treat an individual equally due to a protected status. Protected status is defined in applicable state (NDCC 14-02.4-02 (6)) and federal laws.
- Employee is defined in accordance with NDCC 14-02.4-02 (7).
- Harassment is a specific type of discrimination based on a protected status. It occurs under the following conditions:
  - a. For employees when enduring the offensive conduct becomes a condition of continued employment, or the conduct is severe, persistent, and/or pervasive enough to create a work environment that a reasonable individual would consider intimidating, hostile, or abusive.
  - b. For students when the conduct is sufficiently severe, persistent, and/or pervasive so as to limit the student's ability to participate in or benefit from the education program or to create a hostile or abusive education environment.
- North Dakota Human Rights Act (NDCC ch 14-02.4) provides protection from discrimination in the workplace on the basis of race, color, religion, sex, national origin, age, the presence of any mental or physical disability, A.
- Section 504 (Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794) is a federal law designed to protect the rights of individuals with disabilities in programs and activities that receive federal financial assistance from the U.S. Department of Education.
- Sexual harassment is a form of harassment based on sex. It is defined under Title IX as unwelcome sexual advances, requests for sexual favors, and/or other verbal, written, or physical conduct or communication of a sexual nature, that:
  - a. Constitutes quid pro quo harassment, meaning submission to such conduct or communication is made a term or condition, either explicitly or implicitly, of the basis for employment decisions or educational decisions or benefits for students (e.g., receiving a grade);
  - b. Is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District's education program or activity; or
  - c. Constitutes sexual assault, dating violence, domestic violence, or stalking as those offenses are defined in the Clery Act, 20 U.S.C. § 12291(a).
- Sexual harassment examples may include, but are not limited to:
  - a. Sexual or "dirty" jokes
  - b. Sexual advances
  - c. Pressure for sexual favors

- d. Unwelcome touching, such as patting, pinching, or constant brushing against another's body
  - e. Displaying or distributing of sexually explicit drawings, pictures, and written materials
  - f. Graffiti of a sexual nature
  - g. Sexual gestures
  - h. Touching oneself sexually or talking about one's sexual activity in front of others
  - i. Spreading rumors about or rating other's sexual activity or performance
  - j. Remarks about a person's sexual orientation
  - k. Sexual violence, including, rape, sexual battery, sexual abuse, and sexual coercion
- Title II of the Americans with Disabilities Act extends the prohibition on discrimination established by Section 504 to all services, program, and activities of State and local government entities.
  - Title VI is a federal law that provides protection from discrimination based on race, color, or national origin in employment and employment practices in programs or activities receiving federal financial assistance.
  - Title VII is a federal law that provides protection from discrimination on the basis of race, color, religion, sex or national origin. Title VII applies to all public school districts with 15 or more employees.
  - Title IX is a federal law that provides protection from discrimination, based on sex, in education programs or activities that receive federal financial assistance.

## Complaint Filing Procedure

The Board has created informal and formal discrimination and harassment complaint resolution procedures in board regulation coded AAC-BR1. For Title IX sexual harassment complaints, grievance procedures shall be followed in accordance with federal regulations and board regulation AAC-BR2. The formal resolution procedures provide for an impartial investigation free of conflicts of interest and bias.

Nothing in this policy or in the discrimination & harassment grievance procedure shall prevent an individual from pursuing redress through state and/or federal law.

## Confidentiality

An individual wishing to file an anonymous harassment and/or discrimination complaint must be advised that confidentiality may limit the district's ability to fully respond to the

complaint and that retaliation is prohibited. The appropriate grievance coordinator (Nondiscrimination, Title IX, or 504/Title II) shall perform a confidentiality analysis to determine when a request for confidentiality cannot be honored due to safety reasons or the district's obligation to maintain a nondiscriminatory educational environment, and the complainant shall be notified in writing of the confidentiality analysis outcome. A harassment or discrimination investigation report is subject to the open records law after 60 days or when the investigation is complete (whichever comes first), with limited exceptions such as when the record is protected by FERPA.

## Complaint Recipients

If any district employee receives a discrimination or harassment complaint, the employee shall promptly forward it to the appropriate grievance coordinator. All District employees must receive training on their reporting duties.

## Policy Training and Dissemination

The Board authorizes the Superintendent to develop harassment and discrimination awareness training for students and employees. In addition, the Superintendent shall display this policy and complementary grievance procedure in a prominent place in each district building and publish it in student and employee handbooks.

## Grievance Coordinators

Districts must designate at least one employee to be their Title IX Coordinator and authorize such individual(s) to coordinate the district's efforts to comply with its responsibilities under the applicable regulations.

The Title IX Coordinator's responsibilities include overseeing the District's response to Title IX reports and complaints and identifying and addressing any patterns or systemic problems revealed by such reports and complaints. The Title IX Coordinator must have knowledge of the requirements of Title IX, of the District's policies and procedures on sex discrimination, and of all complaints raising Title IX issues throughout the District. To accomplish this, the Title IX Coordinator must be informed of any report or complaint raising Title IX issues, even if the report or complaint was initially filed with another individual or office or if the investigation will be conducted by another individual or office.

The Board designates the Human Resource Director as the lead Title IX Coordinator. They may be contacted at: 215 2nd St SE, Minot, ND 58701, 701-857-8772, or

katy.dahl@minot.k12.nd.us. The Board designates the following two additional Title IX Coordinators: Travis Smith, Assistant Principal, who may be contacted at 215 1st St SE Minot ND 58701, 701-857-4660, or [travis.smith@minot.k12.nd.us](mailto:travis.smith@minot.k12.nd.us); and Amanda Porter, Assistant Principal, who may be contacted at 1215 36th Ave NW Minot ND 58703, 701-857-4465, or [amanda.porter@minot.k12.nd.us](mailto:amanda.porter@minot.k12.nd.us). Districts must notify applicants for admission and employment, students, parents, or legal guardians, employees and unions of the name and specified contact information for the designated Title IX Coordinator(s). The notification must also state that inquiries about the application of Title IX and its regulations may be directed to the District's Title IX Coordinator(s) or the Assistant Secretary of Education, or both. Districts must prominently display the Title IX Coordinator(s) contact information on their website, if any, and in each handbook it makes available to applicants, students, parents or legal guardians, employees and unions. Any person may report sex discrimination, including sexual harassment, at any time (including during non-business hours).

The 504/Title II Coordinator's core responsibilities include overseeing the District's response to disability discrimination reports and complaints. The 504/Title II Coordinator must have knowledge of the requirements of Section 504 and Title II, of the District's policies and procedures on disability discrimination, and of all complaints raising Section 504/Title II issues throughout the District. To accomplish this, the 504/Title II Coordinator must be informed of any report or complaint raising Section 504/Title II issues, even if the report or complaint was initially filed with another individual or office or if the investigation will be conducted by another individual or office. The Board designates Jim Vitko, as the 504/Title II Coordinator. They may be contacted at: 1100 11th Ave SW, Minot, ND 58701 701-857-4571, or [jim.vitko@minot.k12.nd.us](mailto:jim.vitko@minot.k12.nd.us).

The Nondiscrimination Coordinator's core responsibilities include overseeing the District's response to discrimination and harassment reports and complaints that do not include sex or disability under applicable federal laws, but instead the other protected statuses or sex or disability based discrimination under state law. The Board designates the Human Resources Director as the Nondiscrimination Coordinator. They may be contacted at: 215 2nd St SE, Minot, ND 58701, 701-857-8772, or [katy.dahl@minot.k12.nd.us](mailto:katy.dahl@minot.k12.nd.us).

## Training

The Title IX, 504/Title II, and Nondiscrimination Coordinators, and any other school official responsible for investigation of discrimination complaints, shall receive training. This training must include:

1. The definition of discrimination, harassment, and retaliation;
2. The handling of complaints under the Discrimination & Harassment Grievance Procedure (AAC-BR1); and
3. The applicability of confidentiality requirements.

In addition, the Title IX Coordinator(s), investigators, decision-makers, and those facilitating an informal resolution process, if applicable, regarding reports of Sexual Harassment under Title IX shall receive training in a number of areas specified in board regulation AAC-BR2.

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