

District Code: AC

Discrimination and Harassment Policy and Procedure

I. Purpose

The purpose of this policy is to educate the District on discrimination and harassment, and to prevent, correct, and address behavior that violates this policy.

II. General Statement of Policy

The Rapid City Area School District (“District”) prohibits discrimination against, and harassment of any student, employee, non-employee or community member, as defined in this policy. The District includes school facilities, school premises, school vehicles (and non-school vehicles) used to transport students, employees, non-employees or community members to school-sponsored activities and/or functions, and any other area where the District has control of the premises.

III. Definitions

A. Discrimination

Discrimination is defined as conduct including words, gestures, and other actions which disadvantages a person (or group) based upon the person’s or group’s age, citizenship, color, creed, disability, ethnic background, national origin, political affiliation, race, religion, sex (including pregnancy), sexual orientation, veteran status, or any other protected characteristic under applicable federal or state law.

Personality differences or conflicts, general mistreatment not based on the above protected categories, or a response to poor performance are usually employee relations issues, not discrimination matters.

B. Harassment

Harassment is defined as a pattern of unwelcome conduct which is severe or pervasive enough to create a hostile working or learning environment, which continues after the harasser knew or was informed that the conduct was unwelcome, and which is based on a person's or group's age, citizenship, color, creed, disability, ethnic background, national origin, political affiliation, race, religion, sex (including pregnancy), sexual orientation, veteran status, or any other protected characteristic under applicable federal or state law.

Petty slights, annoyances, and isolated incidents (unless extremely serious) may not rise to a level of harassment.

1. Sexual Harassment

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature if:

- a) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education;
- b) Submission or rejection of such conduct by an individual is used as the basis for employment decisions or academic performance; or
- c) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive environment.

Sexual harassment must be so severe or pervasive as to create a hostile working or learning environment.

IV. Reporting Procedures

All students, employees, non-employees and community members have a responsibility to maintain a positive learning, work and school environment by reporting all incidents or suspected incidents of discrimination and/or harassment involving

themselves or others. The District has adopted procedures which provide for prompt and equitable resolution of matters protected by this policy.

False, malicious or frivolous complaints of discrimination or harassment may result in disciplinary action.

A. Student

If a student believes they have been harassed or discriminated against, the student should immediately report the incident(s) to a counselor, teacher or principal at their school. If the matter is not resolved at the building level within ten (10) days, the student must follow the procedures in the Public Complaint Policy and Procedure (District Policy KL). Failure to file a Public Complaint within the designated time periods set forth in District Policy KL constitutes a waiver of the right to file a Public Complaint.

If an employee of the District receives an allegation or complaint of harassment or discrimination from a student, it is the employee's obligation to immediately report the complaint to the school principal. Failure to direct the student to report an allegation or complaint of discrimination or harassment to the principal could result in disciplinary action.

B. Parent, Non-employee, or Community Member

A parent, non-employee, or community member who believes they have been harassed or discriminated against (as defined in this policy), or who have witnessed harassment or discrimination, must follow the procedures in the Public Complaint Policy and Procedure (District Policy KL). Failure to file a Public Complaint within the designated time periods set forth in District Policy KL constitutes a waiver of the right to file a Public Complaint.

C. Employees

Employees who believe they have been harassed or discriminated against (as defined in this policy), or who have witnessed harassment or discrimination, must, within five (5) working days of the alleged violation, notify the Public Complaint Coordinator.

Public Complaint Coordinator (Director of Human Resources)

300 6th Street
Rapid City, SD 57701
Phone: 394-4014

After notification to the Public Complaint Coordinator, employees making a claim of harassment or discrimination against a supervisor must proceed to follow the "Grievance Procedure" as provided in the applicable Negotiated or Work Agreement between Rapid City Area School District No. 51-4 and its employee groups. Employees making a claim of harassment or discrimination against a co-worker must proceed to follow the procedures in the Public Complaint Policy and Procedure (District Policy KL). The Public Complaint Coordinator will notify the employee which procedure is appropriate given the nature of the complaint.

Failure to timely file or timely appeal a Grievance or Public Complaint within the designated time periods constitutes a waiver and renders any Public Complaint or Grievance null and void.

D. Grievance or Public Complaint Withdrawal

Individuals may withdraw their Grievance or Public Complaint in writing at any time. However, the District reserves the right to proceed with an investigation and resolution of the complaint in order to effectively determine whether discrimination or harassment has occurred.

E. Confidentiality

It is the District's intent to keep the information brought forward in a Public Complaint or Grievance, as it relates to this policy, confidential and limited to those directly involved with the complaint. It is the District's expectation that all parties involved in a Public Complaint or Grievance will respect the confidentiality of the matters involved. Because an individual's right to confidentiality must be balanced with the District's obligations to investigate complaints, cooperate with police investigations or legal proceedings, or to take appropriate disciplinary action, the District retains the right to disclose the identity of parties and witnesses to complaints in appropriate circumstances.

Where a complaint involves allegations of child abuse, the complaint shall be immediately reported to appropriate law enforcement authorities and the anonymity of both the complainant and school officials involved in the investigation will be strictly protected as required by South Dakota law.

F. Criminal Procedure

Nothing in this Discrimination and Harassment Policy prevents any person from filing a formal criminal complaint with a state or federal agency. If it is determined that criminal charges may result or are pending, the District may elect but is not required to cease its investigation. The District will comply when necessary with a state or federal investigation.

G. Retaliation

The District prohibits retaliation against any person because that person has asserted, or has assisted another person assert a discrimination or harassment complaint with the District or with any state or federal agency, or because that person has testified or participated in any manner in an investigation, proceeding or hearing

concerning a complaint of discrimination or harassment. Retaliation is a violation of federal and state law, and may lead to disciplinary action against the offender.

Retaliation based on complaints which are false, malicious, or frivolous are not protected under this policy.

V. Training and Dissemination of Policy

The District has the responsibility of educating its employees on the District's Discrimination/Harassment Policy and appropriate procedures. See "Reporting Procedures."

A. Training for Employees and Substitute Teachers

All employees and substitute teachers will receive a copy of this Policy. The District will provide, on an annual basis, training to school employees. The District will maintain records verifying that each employee attended the training and that the employee understands the Discrimination and Harassment Policy and the appropriate procedures to follow if the employee witnesses or experiences discrimination or harassment. See Verification of Discrimination and Harassment Policy and Procedure (Exhibit 1) AC-E1. The training will educate employees regarding their rights and responsibilities, behaviors which constitute harassment or discrimination, and appropriate procedures to follow when they believe they have witnessed or experienced harassment or discrimination.

The annual training may include, but is not limited to the following:

- Review of the District's Discrimination and Harassment Policy and appropriate procedures;
- Provide definitions of all types of discrimination and harassment and an overview of relevant state and federal laws, including the rights of individuals and groups of individuals;

- Identify appropriate identification of discrimination/harassing behaviors by students and/or staff;
- Identify appropriate prevention techniques; or
- Train in positive, appropriate communication alternatives to discrimination/harassment.

If the employee does not understand the Policy, it is the obligation of the employee to request that additional training be offered.

B. Policy Dissemination

This Policy will be published annually in the Student Handbook, Staff Handbook, and on the District's website.

Legal References:

Title VII of the Civil Rights Act of 1964
Age Discrimination in Employment Act of 1967
Title II of the Americans with Disabilities Act of 1990
Section 504 of the Rehabilitation Act of 1973
Title IX - Education Amendments of 1972
Title VI - Civil Rights Act of 1964
Individuals with Disabilities in Education Act
Constitution of the State of South Dakota - Art. VI
SDCL 13-37 – Special Assistance and Related Services
SDCL 20-12 – Municipal and County Protection of Human Rights
SDCL 20-13 – Human Rights

Adopted:

June 12, 2017

AC - District Staff Verification of Discrimination and Harassment Policy and Procedure (Exhibit 1)

I, _____ (name), am a _____ (position held) at the Rapid City Area School District. I have read and reviewed the Rapid City School District Discrimination and Harassment Policy and Procedure. In addition, I have read and reviewed the:

Grievance Procedure set forth in the Negotiated Agreement/ Work Agreement applicable to my position, and the Public Complaint Policy and Procedure.

I understand the policy and procedures described above. In addition, I have received training on Discrimination and Harassment.

Signature: _____

Date: _____