

## NONDISCRIMINATION & ANTI-HARASSMENT POLICY

### General Prohibitions

The Jamestown 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, parent/guardian, and/or employee's race, color, religion, sex, gender identity, national origin, ancestry, disability, age, or other status protected by law.

It shall be a violation of this policy for any district student, parent/guardian, or 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 had a continuing effect in the educational setting on campus or in an off-campus program or activity. 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 person affiliated with a person 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, which 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/discrimination, the victim will be afforded the same rights as the complainant under this policy and regulation AAC-BR.
- *Disability* is defined in accordance with NDCC 14-02.4-02 (5).
- *Discrimination* means failure to treat a person 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 or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

- b. For students when the conduct is sufficiently severe, persistent, or pervasive to limit a student's ability to participate in or benefit from the education program or to create a hostile or abusive education environment.
- *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 or gender identity. It is defined as unwelcome sexual advances, requests for sexual favors, and/or other verbal, written, or physical conduct or communication of a sexual nature when:
  - a. It is quid pro quo, 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); or
  - b. It creates a hostile environment meaning unwelcome sexual conduct or communication that is sufficiently serious to deny or limit a student's ability to participate in or benefit from the school's program(s). For employees a hostile environment is created when submission to unwelcome sexual conduct is made either explicitly or implicitly a term or condition of an individual's employment.
- *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, but not limited to, rape, sexual battery, sexual abuse, and sexual coercion
- *Title II* (Title II of the Americans with Disabilities Act, as amended, 28 C.F.R. Part 35) extends the prohibition on discrimination established by Section 504 to all services, programs, and activities of State and local government entities.
- *Title IX* (Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.*) is a federal law that protects people from discrimination based on sex in education programs or activities that receive federal financial assistance.

### **Complaint Filing Procedure**

The Board has created an informal and formal harassment and discrimination complaint resolution procedure in board regulations coded AAC-BR. The procedure provides for an impartial investigation free of conflicts of interest. 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 shall 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**

All District employees are responsible for receiving complaints of discrimination or harassment and shall forward complaints to the appropriate grievance coordinator. All District employees shall receive appropriate 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**

The Title IX Coordinator's core 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 all reports and complaints 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 Sally Ost, Business Manager, as the Title IX Coordinator. She can be contacted at: 207 2<sup>nd</sup> Avenue SE, Jamestown, ND 58401, [Sally.Ost@k12.nd.us](mailto:Sally.Ost@k12.nd.us), or 701-252-1950.

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 all reports and complaints 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 Rhoda Young, Director of James River Special Education Cooperative, as the 504/Title II Coordinator. She can be contacted at: 207 2<sup>nd</sup> Avenue SE, Jamestown, ND 58401, [Rhoda.Young@k12.nd.us](mailto:Rhoda.Young@k12.nd.us), or 701-252-3376.

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, but instead the other protected statuses. The Board designates Robert Lech, Superintendent as the Nondiscrimination Coordinator. He can be contacted at: 207 2<sup>nd</sup> Avenue SE, Jamestown, ND 58401, [Robert.Lech@k12.nd.us](mailto:Robert.Lech@k12.nd.us), or 701-252-1950.

The Title IX, 504/Title II, and Nondiscrimination Coordinators, and any other school official responsible for investigation of discrimination complaints, shall receive appropriate training. This training shall include (1) what constitutes discrimination, harassment, and retaliation; (2) the handling of complaints under the Discrimination & Harassment Grievance Procedure (AAC-BR); and (3) applicability of confidentiality requirements.

**End of Jamestown Public School District Policy AAC ..... Adopted: 4/3/2017**