

## **NONDISCRIMINATION & ANTI-HARASSMENT POLICY**

### **General Prohibitions**

The Midway School District #128 (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 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 or employee to harass or discriminate against another district student or employee based on any status protected by law. 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 or discrimination 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.

### **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
- *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).
    - 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

### **Complaint Filing Procedure**

The Midway School Board (Board) shall create an informal and formal harassment and discrimination complaint filing procedure in Board regulations. Nothing in this policy or in the harassment/discrimination 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 will limit the district's ability to fully respond to the complaint and that retaliation is prohibited. The Title IX Coordinator 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. 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.

### **Responsible Employees**

The Superintendent shall identify school employees responsible for receiving and reporting discrimination and harassment incidents and complaints. These individuals shall be listed in student handbooks and 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.

### **Nondiscrimination Coordinator**

The Board will designate a Title IX Coordinator at its Annual Meeting. The Title IX Coordinator should not be the Superintendent. S/he can be contacted at: Midway Public School, 3202 33<sup>rd</sup> Ave NE, Inkster, ND. Phone: 701-869-2432. The Title IX/Nondiscrimination Coordinator and any other school official responsible for investigation of discrimination complaints shall receive appropriate training.