

Non-Discrimination and Anti-Harassment

The Peace Garden Special Education Unit is committed to maintaining a learning and working environment free from discrimination and harassment in all employment and educational programs, activities, and facilities. The Unit prohibits discrimination and harassment based on an employee's or student's race, color, religion, gender, national origin, ancestry, disability, age, or other class protected by law.

It shall be a violation of this policy for any employee to harass or discriminate against a student or Unit/member school employee sexually or based on any other class protected by law. The Unit will not tolerate harassment or discrimination of a Unit employee by a third party. The Unit 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 504 Coordinator (PGSEU) 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 in accordance with board policy, law, and, when applicable, the negotiated agreement. Employees are expected to fully cooperate in the investigation process.

Definitions

- *Disability* is defined in accordance with NDCC 14-02.4-02 (5).
- *Discrimination* is defined in accordance with NDCC 14-02.4-02 (6).
- *Employee* is defined in accordance with NDCC 14-02.4-02 (7).
- *Harassment* is any physical or verbal conduct related to an individual's race, color, religion, gender, national origin, age, disability, or other class protected by law that creates an intimidating, hostile, or offensive working or educational environment or is otherwise sufficiently serious to substantially or unreasonably limit an individual's employment or educational opportunities.
- *Sexual harassment* is 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 obtaining or retaining employment; of obtaining an education, advancement, or grade; or is used as a factor in decisions affecting an individual's employment or education.
 - b. It creates a hostile environment meaning such conduct or communication that has the purpose or effect of substantially or unreasonably interfering with an individual's employment or education or creating an intimidating, hostile, or offensive employment or education environment.

- *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; and
 - j. Remarks about a person's sexual orientation.

Complaint Filing Procedure: The Unit has created an informal and formal harassment and discrimination complaint filing procedure (below). 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 Unit's ability to fully respond to the complaint. The Unit will attempt to protect the identity of the complainant, witnesses, and alleged harasser to the extent possible under law; however, a harassment or discrimination investigation report is subject to the open records law, with limited exceptions.

Policy Training and Dissemination: The Board authorizes the Director to develop harassment and discrimination awareness training for employees. In addition, the Unit shall display this policy and complementary grievance procedure in a prominent place at the Unit's main office.

Nondiscrimination Coordinator: The Board designates the Unit Director as the Title IX and Nondiscrimination Coordinator. The Director can be contacted at: 309 2nd St SE, Bottineau, ND 58318 or 701--228-- 3743.

Discrimination and Harassment Grievance Procedure

The following procedure is designed to resolve harassment and discrimination complaints in a prompt and equitable manner. Board policy requires all staff to fully cooperate when asked to participate in a harassment investigation. The procedure contained in these regulations supersedes the Unit's complaints about personnel policy.

Complaint Filing Format and Deadlines: Complaints can be filed verbally or in writing and should be filed as soon as a victim or witness of alleged harassment and/or discrimination becomes aware that alleged harassment or discrimination occurred. Complaints must be filed within statutory deadlines contained in law.

Informal Complaint Procedure: An informal harassment or discrimination complaint shall be filed using the following procedure:

1. The complainant files the complaint with the Unit Director. If the Unit Director is the subject of the complaint, the recipient shall forward it to the Board President who shall designate an investigator.
2. The designated investigator shall meet with each party individually and collect information needed to arrive at an equitable solution. At no time shall the complainant be required to work out the problem directly with the accused.
3. Within 30 calendar days of the complaint being filed or as soon as practical, the investigator shall issue a written notice of recommendations to both parties. Disciplinary recommendations shall be carried out in accordance with policy, law, and, when applicable, the negotiated agreement.
4. The investigator or designee shall monitor the implementation and effectiveness of recommendations if harassment/discrimination persists.

Both the complainant and the accused have the right to terminate the informal procedure at any time to pursue a remedy under the formal grievance procedure.

Formal Grievance Procedure

1. Filing a Complaint:
 - a. A victim or witness of alleged harassment or discrimination may file a formal complaint either orally or in writing to the Unit Director. Harassment/discrimination complaints about the Unit Director shall be filed with the Board President.
 - b. Upon receipt of the complaint, the recipient shall document the date, time, and nature of the complaint and shall request the complainant's signature on this document.
 - c. Within five work days of receiving the complaint or as soon as practical, the recipient of the complaint shall issue a notice to the complainant and the accused that a complaint has been filed.
2. Investigation Process:
 - a. The investigation may be conducted by Unit Director, Board President (if the complaint concerns the Director), or a third party designated by the Unit Board.
 - b. Before the investigation commences, the investigator in coordination with the Unit Director or Board President (if the Director is the subject of the complaint) shall determine if interim measures must be taken to prevent harassment/discrimination during the course of the investigation and whether law enforcement or other applicable officials should be notified.
 - c. The investigation shall consist of interviews with the complainant, the accused, and any others who may have witnessed or otherwise have knowledge of the circumstances giving rise to the alleged complaint and may involve gathering and review of information relevant to the complaint. Witnesses shall be instructed not to discuss this matter with others. At no time during the investigation shall the complainant be required to meet with the accused to discuss the complaint.

- d. The investigator shall complete his/her investigation within 15 calendar days or as soon as practical.
- e. Any deviation from the investigation procedure should be documented with an explanation. Reasons for delays in the investigation also should be documented.

3. Investigation Report:

- a. After the investigator has completed the investigation, s/he shall complete a written report containing a determination of whether allegations were substantiated, whether the discrimination/ harassment policy was violated, and recommendations for corrective action, if any. These determinations shall be made on a case--by--case basis based on, but not limited to, the following criteria:
 - i. Whether evidence suggests a pattern of conduct supporting or disproving the allegations or harassment or discrimination
 - ii. Whether behavior meets the definition of harassment, sexual harassment, and/or discrimination as defined in board policy
 - iii. Ages of the parties involved
 - iv. Relationship between the parties involved
 - v. Severity of the conduct
 - vi. How often the conduct occurred, if applicable
 - vii. How the Unit resolved similar complaints, if any, in the past.
- b. The investigator shall submit his/her report to the Unit Director or Board President (if the Director is the subject of the complaint). This individual shall review the report, determine if the recommendations are appropriate, implement the portions of the report s/he approves, and develop a monitoring plan to evaluate the effectiveness of the recommendations and help prevent recurrence. Any disciplinary action shall be carried out in accordance with board policy, law, and, when applicable, the negotiated agreement.
- c. Prior to implementing the recommendations, the Unit Director or Board President (if the Director is the subject of the complaint) shall issue his/her decisions in writing to the complainant and accused. These decisions shall be final and binding; however, nothing shall prevent the parties from seeking judicial redress through a court of competent jurisdiction.
- d. The entire complaint filing, investigation, and reporting process should be completed within 30 calendar days or as soon as practical not to exceed 60 calendar days.

Deadlines for Filing a State or Federal Discrimination and Harassment Complaint

Most employment-related discrimination or harassment complaints:

- Statute of limitations is 300 days (NDCC 14-02.4-19)
- Complaints should be filed
with: North Dakota
Department of Labor Human
Rights Division
600 East Boulevard Ave, Dept. 406
Bismarck, ND 58505-0340
Phone: (701) 328-2660 or 1-800-582-8032

Employee, student, or other person claiming to be aggrieved by a discriminatory practice with regard to public services or public accommodations:

- Statute of limitations is 180 days (NDCC 14-02.4-19)
- Complaints should be filed
with: North Dakota
Department of Labor Human
Rights Division
600 East Boulevard Ave, Dept. 406
Bismarck, ND 58505-0340
Phone: (701) 328-2660 or 1-800-582-8032