



## **4001.1: NON-DISCRIMINATION AND HARASSMENT**

I. Unlawful Discrimination and Unlawful Harassment Prohibited. The District is committed to offering employment opportunities to its employees in an environment that is free from unlawful discrimination and unlawful harassment (including sexual harassment) and will not tolerate unlawful discrimination or unlawful harassment (including sexual harassment). All employees are responsible for creating and maintaining an environment free of such unlawful discrimination and unlawful harassment (including sexual harassment). The District does not discriminate on the basis of race, color, religion, national origin, gender, marital status, disability, age, or on any other basis prohibited by federal, state, or local laws (hereinafter "protected status").

A. Unlawful discrimination is defined as unfavorable or disparate treatment of a person or class of persons when that person's protected status is a factor in such unfavorable or disparate treatment.

B. Disparate or unfavorable treatment of similarly situated employees is not necessarily unlawful discrimination. Treating a person unfavorably in comparison to other similarly situated employees may be unlawful when that person's protected status is a factor in the disparate or unfavorable treatment.

II. Sexual Harassment Prohibited. Sexual harassment is considered a form of sex discrimination. Sexual harassment by District personnel or other District personnel, or of students, patrons, or vendors is strictly prohibited and shall be grounds for discipline. Sexual harassment shall include, but is not limited to, unwelcome sexual advances, requests for sexual favors and other verbal, nonverbal or physical conduct of a sexual nature when:

A. The conduct or communication has the purpose or effect of demanding sexual favors in exchange for benefits or a quid pro quo relationship is created.

B. Submission to or rejection of the conduct or communication is used as the basis for decisions affecting employment or assignment of staff.

C. The conduct or communication is so severe, persistent or pervasive that it has the purpose or effect of unreasonably interfering with an employee's ability to perform his/her job or creates an intimidating offensive or hostile environment.

III. Retaliation Prohibited. Retaliation is also strictly prohibited and shall be grounds for discipline. There shall be no retaliation by the District or its personnel against any person who, in good faith, reports, files a complaint or otherwise participates in an investigation or inquiry of unlawful discrimination or unlawful harassment (including sexual harassment). The initiation of a complaint in good faith about behavior that may violate the District's policies shall not result in any adverse action.

IV. Personnel Complaints. Complaints by District personnel regarding unlawful discrimination or unlawful harassment (including sexual harassment) shall follow the procedures of District Rule 4001.2.

V. Students Sexually Harassed or Discriminated Against by District Personnel. Students or parents of

students complaining of unlawful discrimination or unlawful harassment (including sexual harassment) by District personnel or other students shall report such conduct to the building principal and shall follow the complaint procedures of District Rule 5010.2.

## VI. Definitions.

A. "Unlawful Harassment" is defined as unwelcomed repetitive conduct affecting the work environment with the effect of unreasonably interfering with the ability of an employee to perform his or her job and creates an intimidating, offensive or hostile work environment, which is based in whole or in part on the employee's protected status.

B. "Complainant" shall mean a person employed by the District or an individual performing contracted services under the control and supervision of the District, and who reports to the District under this Rule that he/she has been unlawfully discriminated against or unlawfully harassed (including sexual harassment).

C. "Adverse action" includes, but is not limited to, any form of physical or verbal intimidation or threat, unjustified job loss close in time to the complainant's reaction to unlawful discrimination or unlawful harassment (including sexual harassment), unjustified increase in work responsibility without compensation or training close in time to the complainant's reaction to unlawful discrimination or unlawful harassment (including sexual harassment), and any other unjustifiable work-related treatment that is adverse to the complainant and is a result of his or her reaction to unlawful discrimination or unlawful harassment (including sexual harassment).

D. "Hostile environment" includes, but is not limited to, a pattern of unwelcome sexual advances, requests for sexual favors, and unwelcome verbal or physical conduct of a sexual nature which interferes with the terms, conditions, or privileges of the complainant's educational work or performance. Examples include unwanted touching, body contact, pinching, patting, name-calling, repeated propositions, written messages, notes, cartoons, graffiti, intimidation, and any other act or communication which is based on sex and interferes with the complainant's educational work or performance.

E. "Quid pro quo" is a relationship that includes, but is not limited to, a superior of the complainant making submission or rejection to requests for sexual favors explicitly or impliedly, a term or condition or privilege of employment. Examples include making submission or rejection the basis for employment decisions affecting the individual's career, salary, job security, advancement, and day-to-day treatment while performing job responsibilities.

F. "Retaliation" shall include, but is not limited to, adverse action against a complainant for his or her reaction to unlawful discrimination or unlawful harassment (including sexual harassment), or against any person who, in good faith, reports, or otherwise participates in an investigation or inquiry taken by the person responsible for the unlawful discrimination or unlawful harassment (including sexual harassment), or by any other party so long as the adverse action is the result of the complainant's reaction to unlawful discrimination or unlawful

harassment (including sexual harassment).

G. "Title IX Coordinator" shall mean the District's Associate Superintendent of Human Resources.

### **Date of Adoption**

August 16, 1982

### **Date of Revision**

September 20, 1993

November 20, 1995

March 17, 1997

June 2, 2003

September 20, 2010

July 2, 2012

July 9, 2018

### **Related Policies and Rules**

[1100.4: Notice of Non-Discrimination](#)

[4001: Non-Discrimination and Harassment](#)

[4001.2: Non-Discrimination and Harassment Complaint Procedure](#)

[4100: Recruitment, Selection, and Non-Discrimination](#)

[4163.3: Remedial Action Investigation/Procedure](#)

[5010: Non-Discrimination and Harassment](#)

[5010.1: Non-Discrimination and Harassment](#)

[5010.2: Discrimination and Harassment Complaint Procedure](#)

[5020: Equal Educational Opportunity](#)

[5020.1: Equal Educational Opportunity](#)

[6002: Non-Discrimination](#)

### **Legal Reference**

Nebraska Fair Employment Practice Act (Neb. Rev. Stat. §48 1101 et seq.)

Neb. Rev. Stat. §79-544; 79-896; 79-820; 79-801; 79-802; 48-901 to 48-912

Age Discrimination in Employment Act

Title VII Civil Rights Act

Rehabilitation Act 1973 and Rehabilitation Act Amendments

Title IX of the Education Amendments of 1972

The Americans with Disabilities Act of 1990

Equal Employment Opportunity Act

Nebraska Equal Opportunity in Education Act (Neb. Rev. Stat. §79-2,114 to 79-2,124)