

SECTION A: Foundations and Basic Commitments

Section A of the EPS/NSBA policy classification system is a repository for statements related to the district's legal role in providing public education and the underlying principles on which the district operates. The policies in this section provide a setting for all of the school board's other policies.

AA	School District Legal Status
ABA	Community and Parent Involvement in Decision Making
ABAA	Parent Involvement in Title I
ABAA-R	Parental Involvement Guidelines Title I
ABAB	Parent Involvement
ABAC	Relations with Parents
AC	Non-discrimination in Federal Programs
AC-E(1)	Non-discrimination in Federal Program Complaint Report Form
AC-E(2)	Non-discrimination in Federal Programs Complaint Appeal to the Superintendent
AC-E(3)	Non-discrimination in Federal Programs Complaint Appeal to the School Board
ACAA	Harassment
ACAB	Bullying
ACAC-E(1)	Initial Complaint Report Form
ACAC-E(2)	Investigation Report Form
ACAC-E(3)	Notice of Findings
ACAC-E(4)	Complaint Appeal to Superintendent
ACAC-E(5)	Complaint Appeal to School Board
ACB	Nondiscrimination on the Basis of Disability
AD	Educational Philosophy
AE	Wellness Policy
AEA	Tobacco-Free Schools
AG	Contested Hearings
AH	Conflict Disclosure and Authorization
AH-E(1)	Request for School Board Waiver
AH-E(2)	Waiver Authorization Pursuant to SDCL 3-23-3

SCHOOL DISTRICT LEGAL STATUS

The United States Constitution leaves to the individual states responsibility for public education.

In South Dakota, the legislature is charged by the Constitution "to establish and maintain a general and uniform system of public schools" which is open to all children and free from sectarian control.

The State Board of Education is responsible for the adoption of all policies for the government of the Division of Elementary and Secondary Education, and for the adoption and implementation of regulations for supervising the elementary and secondary schools.

School districts exist for the purpose of operating a school or schools to provide the people of each local community adequate opportunity to avail themselves of a free public elementary and secondary education program.

This school district constitutes a school corporation under the name of "Tea Area School District #41-5 of Lincoln County, South Dakota."

State References

SD Constitution Article 22	Compact with the United States
SD Constitution Article 26 §18	Freedom of religion
SD Constitution Article 8 §1	Uniform system of free public schools
SDCL 13-5-1	School districts defined
SDCL 13-5-14	School districts overlapping county boundaries
SDCL 13-5-15	School districts as corporations
SDCL 13-5-16	Naming and numbering of school districts
SDCL 13-5-17	Recording of school district names, numbers and boundaries
SDCL 13-5-17.1	Change of name of school district
SDCL 13-5-2	Types of school districts abolished
SDCL 13-5-29	Vested contract rights not impaired
SDCL 13-6	School district reorganization

Federal References

US Constitution 10th Amendment Powers of the states and people

Original Adopted Date: July 2003
Reviewed: January 2018
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COMMUNITY AND PARENT INVOLVEMENT IN DECISION MAKING

The Board recognizes the importance of community and parent involvement with the program and the operations of the public schools. By working together the quality of the educational program for students can only improve.

To foster mutual respect and confidence between the public, parents and the Board, an atmosphere of openness and honesty will prevail. The Board will encourage interested groups and representatives to express ideas, concerns and judgments about the schools to the school administration, to staff appointed advisory bodies and to the Board. It will be the Board's responsibility to provide the public and parents with accurate and complete information on the schools and the Board's activities.

The advice of the public and parents will be given careful consideration. In the evaluation of such contributions, the first concern will be for the educational program as it affects the students.

Citizens' Advisory Committees

The Board recognizes that one of the best methods to maintain good communications with the community, and to establish sound public relations, is through temporary citizens' advisory committees.

These committees will be appointed when needed for a specific time and purpose, and will be under the supervisory control of the superintendent or his or her designee. He or she will report to the Board on its membership, function, progress, and final report.

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PARENT INVOLVEMENT IN TITLE I

The Board recognizes the importance of parental involvement with the Title I program and operations of the public school. By working together, the quality of the educational programs will improve.

To foster mutual respect and confidence between parents and the board, an atmosphere of openness and honesty will prevail. The Board will encourage parents and representatives to express ideas, concerns and judgments about the schools to the school administration, to staff appointed advisory bodies and to the Board. It will be the Board's responsibility to provide the public with accurate and complete information on the schools and Board's activities.

Parents' Advisory Committees

The Board recognizes that one of the best methods to maintain good communications with parents, and to establish sound public relations, is through temporary parent Advisory Committees.

These committees will be appointed when needed for a specific time and purpose, and will be under the supervisory control of the superintendent or designee. He or she will report to the Board on its membership, functions, progress and final report.

State References

SD Constitution Article 22

Compact with the United States

Federal References

CFR Title 34 Part 75

Direct grant programs

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**PARENT INVOLVEMENT GUIDELINES
TITLE I**

The Board believes that activities to increase parental involvement are a vital part of the Title I Program. Parents will have an opportunity to design, implement, evaluate and suggest changes to improve the program.

The guidelines are as follows:

1. Parental Notification. Parents of Title I students will be notified within two weeks of a child's selection for the program, and for what academic skills and instructional objectives the student has been selected.
2. Parental In-service. Specific materials and suggestions will be provided parents to assist in the education of their children at home. Suggestions for promoting educational activities at home will also be provided.
3. Student Program Report. Parents will be provided with student program reports at the end of each reporting period. If necessary, periodic written reports will be mailed to parents.
4. Parent-Teacher Conferences. Regular scheduled conference will be held each year to keep parents informed on the progress of their child. Other conferences may be held on request of the parent or teacher.
5. Parent Visitation. Parents are permitted to observe classes at any time, after checking at the administrative office.
6. Parent Advisory Committees. Parent Advisory Committees may be established at each school to review the overall program and to suggest changes.
7. Meeting. At least one public meeting will be held annually where administrators, staff members, parents of participants, parent advisory committees and other interested parents may be present. Agenda items at this meeting will include:
 - a. Information concerning the views of parents and students about educational needs of Title I students and the priorities of student needs;
 - b. Review Title I applications and make recommendations for improving program activities for ensuing projects;
 - c. Review annual funding allocations and carry-over funds;
 - d. Represent and express ideas and opinions of the parents and students of each school attendance area;

- e. Assist the school district in the dissemination of Title I information to parents and the general public through the local media and a school newsletter; and
 - f. Emphasis on supplemental instructional activities appropriate for achieving program goals and objectives.
8. In-service for Teachers. Materials and information will be provided to teachers and other instructional staff involved in the program to assist them to work more effectively with the parents of participating students.
9. Announcements. All parents and students are invited by newsletter or through the local media to the annual meetings or other scheduled meetings. Information will be disseminated at these meetings advising involvement requirements. Reasonable support for parental activities will be handled in a timely manner.
10. Policy Dissemination. Policies, regulations, and other Title I information will be made available to parents at each of the scheduled meetings and at parents' request at anytime during the school year. Parents will be given an opportunity to be involved in the policy development process.

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PARENT INVOLVEMENT

The Board of Education recognizes that a child's education is a responsibility shared by the school and family during the entire period the child spends in school. To support the goals of the school district to educate all students effectively, the schools and parents must work as knowledgeable partners.

Although parents are diverse in culture, language, and needs, they share the school's commitment to the educational success of their children. School districts and schools, in collaboration with the parents, shall establish and develop programs and practices that enhance parent involvement and reflect the specific needs of students and families.

To this end, the Board will support the development, implementation and regular evaluation of a parent involvement program, which will involve parents at all grade levels in a variety of roles. The parent involvement program will be comprehensive and coordinated in nature and will include, but not be limited to, the following:

1. Support to parents as leaders and decision-makers in advisory roles.
2. Promotion of clear two-way communication between the school and the family as to school programs and children's progress.
3. Assistance to parents and or guardians to develop parenting skills to foster positive relationships at home that support children's efforts and provide techniques designed to assist their children with learning at home.
4. Involvement of parents, with appropriate training, in instructional and support roles at the school.
5. Provision of access to and coordination of community and support services for children and families.

These forms of involvement are not mutually exclusive and require a coordinated school wide effort.

State References

SD Constitution Article 22

Compact with the United States

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RELATIONS WITH PARENTS

The Board believes that the education of children is a joint responsibility, one it shares with the parents of the school community. To insure that the best interests of the child are served in this process, a strong program of communication between home and school must be maintained.

The Board feels that it is the parents who have the ultimate responsibility for their children's in-school behavior, including the behavior of pupils who have reached the legal age of majority, but are still for all practical purposes, under parental authority. During school hours, the Board through its designated administrators acts in loco parentis or in place of the parents.

School District Responsibility

The Board directs that the following activities be implemented to encourage parent-school cooperation:

1. parent-teacher conferences to permit two-way communication between home and school;
2. open houses in district schools to provide parents with the opportunity to see the school facilities, meet the faculty and sample the program on a first-hand basis;
3. each school in the district shall hold an open house once each year;
4. meetings of parents and staff members to explain and discuss matters of general interest with regard to child-school, child-home, or child-home school relationships;
5. meetings of staff members and groups of parents of those students having special abilities, disabilities, needs, or problems;
6. special events of a cultural, ethnic, or topical nature, which are initiated by parent groups, involve the cooperative effort of students and parents, and are of general interest to the schools or community.

Parent/Guardian Responsibility

For the benefit of children, the Board believes that parents have a responsibility to encourage their child's career in school by:

1. supporting the school in requiring that children observe all school rules and regulations, and by accepting their own responsibility for children's willful in-school behavior;
2. sending children to school with proper attention to their health, personal cleanliness and dress;

3. maintaining an active interest in the student's daily work and making it possible for the student to complete assigned homework through providing a quiet place and suitable conditions for study;
4. reading all communications from the school, and signing and returning them promptly when required;
6. cooperating with the school in attending conferences set up for the exchange of information on the child's progress in school;
7. participating in in-school activities and special functions.

State References

SD Constitution Article 22

Compact with the United States

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Revised: February 2018

NON-DISCRIMINATION IN FEDERAL PROGRAMS

The District will not violate any of the provisions of applicable federal programs, statutes or regulations, including but not limited to Title IX, ESEA/Title I, Rehabilitation Act Section 504, Title II (Americans with Disabilities Act), ESSA, and McKinney-Vento Act (homeless children). The District will not discriminate in any of its policies and programs on the basis of age, race, color, creed, national origin, ancestry, religion, sex or disability.

The District will provide the following:

1. an adequate, reliable, and impartial investigation of complaints, including the opportunity for the complainant and alleged perpetrator to present witnesses and provide evidence;
2. evaluation of all relevant information and documentation relating to a complaint of discrimination;
3. specific, reasonably prompt time frames at each stage of the grievance process;
4. written notice to all parties within a specified timeframe of the outcome or disposition of the grievance at each stage of the process;
5. an opportunity to appeal the findings or remedy, or both;
6. an assurance that the District will take steps to prevent recurrence of any discrimination and correct discriminatory effects on others; and
7. language in the policies and grievance procedures indicating that any attempts to informally or voluntarily resolve the complaint or grievance should not delay the commencement of the District's investigation.

In compliance with applicable federal laws and regulations, the Board has appointed the Superintendent as the District's Compliance Officer to coordinate program compliance with federal programs. The Superintendent can be reached at:

Tea Area School District 41-5
131 N. Poplar Ave.
Tea, SD 57064
Phone: 605-498-2700

A complaint may also be filed with the United States Office for Civil Rights, U.S. Department of Education at: 1010 Walnut Street, Suite 320, Kansas City, Missouri 64106; Telephone: (816) 268-0550; Facsimile: (816)268-0599; Telecommunication Device for the Deaf: (877) 521.2172; E-mail: OCR.KansasCity@ed.gov.

COMPLAINT PROCEDURE

The Board has adopted a specific procedure to ensure that parental/student/public complaints related to the provisions of applicable federal programs, statutes or regulations, including claims of retaliation. The Board will not discriminate, in any of its policies and programs, on the basis of age, race, color, creed, national origin, ancestry, religion, sex or disability.

The purpose of this complaint procedure is to outline a procedure for addressing parental/student/public complaints about federal program compliance and/or discrimination. *Complaints against school employees and complaints related to sexual harassment, bullying, instructional, and library materials are addressed through other School District policies and not through this policy.*

For the purposes of this policy, a “complaint” is a perceived or alleged violation of federal programs, statutes or regulations (e.g., Title IX, ESEA/Title I, Rehabilitation Act Section 504, Title II (Americans with Disabilities Act), ESSA, McKinney-Vento Act (homeless children), etc.) and/or discrimination in a policy and/or program on the basis of age, race, color, creed, national origin, ancestry, religion, sex or disability.

To protect the confidentiality of all concerned, it is imperative that any school employee in receipt of a complaint treat the complaint as confidential and that the complaint not be reproduced in any form, nor disclosed or discussed with any person other than those identified as proper recipients of the complaint (i.e., the principal, superintendent, school board).

When a federal program compliance complaint or discrimination/harassment complaint based on race, color, national origin, age or sex (excluding sexual harassment complaints) is brought directly to an individual board member or the entire Board, the board member or entire Board may listen to the person’s complaint but shall take no action unless there has been compliance with this Policy. The person bringing the complaint will be directed to the procedure as set forth below. The following procedure is designed to ensure the proper balance in protecting the rights of the person(s) bringing the complaint and the rights of the employee against whom the complaint is made. It is only when the person having the complaint and the employee involved cannot resolve the problem, and the complaint cannot be resolved at the administrative level, will the Board and board members become involved.

Should it be determined that discrimination or harassment occurred based on race, color, national origin, age or sex, the District will take steps to prevent recurrence of any discrimination or harassment and to correct its discriminatory effects on others, if appropriate.

STEP 1: Initial Complaint

- A. The person having the complaint related to federal program compliance or discrimination/harassment complaint based on race, color, national origin, age or sex (excluding sexual harassment complaints), the person must initiate the complaint procedure in one of the following ways:

- meet and discuss the concern with the Employee involved; OR
 - meet and discuss the concern with the Employee's Principal.
 1. If the Complainant met with the Employee and the complaint was not resolved, the Complainant must meet and discuss the complaint with the Employee's Principal within ten (10) calendar days of the meeting with the Employee. The Principal shall complete a Complaint Form, Exhibit AC-E(1). The Complainant shall sign and date the Complaint Form verifying the accuracy of its content.
 2. If the Complainant initiates the complaint by meeting with the Principal, the Principal shall complete a Complaint Form, Exhibit AC-E(1). The Complainant shall sign and date the Complaint Form verifying the accuracy of its contents.
- B. Upon the Complaint Form being signed and dated by the Complainant, the Principal shall give a copy of the complaint to the District's Compliance Officer (Superintendent). The Principal shall also give a copy of the complaint to the Employee and schedule an informal meeting with only the Complainant, Employee and Principal present. At the meeting, the Principal shall attempt to facilitate discussion between the Complainant and Employee by seeking clarification of the issue(s) and seeking a resolution to the complaint. However, attempts to informally or voluntarily resolve the complaint should not delay the commencement of the District's investigation. Should a resolution be obtained, the resolution shall be noted on the Complaint Form. Should a resolution not be obtained, the Complainant and/or the Employee may request a decision by the Principal on the merits of the complaint by making the request on the Complaint Form.
- C. If the Principal is asked to make a decision on the merits of the complaint, the Principal has the authority to investigate the complaint beyond the information received from the Complainant and Employee during the meeting with the Complainant, Employee and Principal. During the Principal's investigation the complainant and alleged perpetrator shall both have the opportunity, at separate times, to present witnesses and provide evidence to the Principal. The Principal shall evaluate all relevant information and documentation related to the complaint of discrimination or harassment and shall render a decision in writing within fourteen (14) calendar days of the request for a decision on the merits of the complaint. The time frame for rendering a decision by the Principal may be extended by the Principal for good cause and upon written notification to the Complainant and Employee. The notification shall identify the reason for the extension and the date on or before which the decision shall be rendered. The Complainant and the Employee shall receive written notification of the Principal's determination/resolution.
- D. The Principal's decision may be appealed by the Complainant or Employee to the Superintendent within (10) ten calendar days of receipt of the Principal's written decision pursuant to Step 2. If the Principal does not render a written decision within the required time frame (14 calendar days unless extended) the Complainant or Employee may appeal to the Superintendent pursuant to Step 2.

Should the complaint be against a Principal, the Superintendent shall address the complaint through the procedure set forth in Step 1. An appeal by the Complainant pursuant to Step 1D may be filed with the School Board pursuant to Step 3.

Should the complaint be against the Superintendent (or the Principal who also is the Superintendent) the Complaint Form, Exhibit AC-E(1), shall be given to the Business Manager. The Business Manager shall give the Complaint Form to the School Board President or Chairperson. At the next School Board meeting, the School Board will designate a person who is not an Employee of the District to address the complaint through the procedure set forth in Step 1. An appeal by the Complainant pursuant to Step 1D may be filed with the School Board pursuant to Step 3.

STEP 2: Appeal to the Superintendent

The following procedure shall be used to address an appeal of the Principal's decision made in Step 1, or if the Principal failed to render a decision in the required time frame:

- A. The appeal shall be in writing using Exhibit AC-E(2). The appealing party must attach the complaint and the Principal's written decision, if a decision was rendered.
- B. Upon receipt of an appeal, the Superintendent will provide a copy of the appeal to the other party. Within five (5) calendar days, the other party may submit a written response to the appeal. The Superintendent shall provide a copy of the response to the appealing party.
- C. In the Superintendent's sole discretion, the Superintendent may (a) meet and discuss the matter with the Complainant and Employee, (b) meet and discuss the matter with the Complainant, Employee and Principal, or (c) meet and discuss the matter with the Principal.
- D. Within fourteen (14) calendar days from the date the appeal was filed with the Superintendent, the Superintendent shall render a decision in writing. The time frame for rendering a decision by the Superintendent may be extended by the Superintendent for good cause and upon written notification to the Complainant and Employee; the notification shall identify the reason for the extension and the date on or before which the decision shall be rendered. The Complainant, Employee and Principal shall receive copies of the decision. The Superintendent may uphold, reverse or modify the Principal's decision. The Superintendent may also refer the matter back to the Principal for further investigation. The Principal may uphold, modify or reverse his or her initial decision. After a matter has been referred back to the Principal, and the Principal rendered a second decision, that decision may also be appealed to the Superintendent.
- E. The Superintendent's decision may be appealed by the Complainant to the School Board within (10) ten calendar days of receipt of the Superintendent's written decision pursuant to Step 3. If the Superintendent does not render a written decision within the required time frame (14 calendar days unless extended) the Complainant may appeal to the School Board pursuant to Step 3.

- F. If the Employee believes the Superintendent's decision constitutes a violation, misinterpretation or inequitable application of School Board policy or collective bargaining agreement applicable to the Employee, the Employee may file a grievance pursuant to the applicable grievance policy. A grievance filed pursuant to this provision shall be initiated at the Superintendent level.

STEP 3: Complainant's Appeal to the School Board

The following procedure shall be used to address an appeal of the Superintendent's decision made in Step 2, or if the Superintendent failed to render a decision in the required time frame:

- A. An appeal to the School Board shall be in writing using Exhibit AC-E(3). The Complainant must attach the complaint, the Principal's written decision if a decision was rendered, the appeal to the Superintendent, the response to the appeal if any, and the Superintendent's decision if one was rendered.
- B. The appeal must be filed with the President/Chairperson of the School Board or Business Manager within ten (10) calendar days of Complainant's receipt of the Superintendent's written decision, or within ten (10) calendar days of the deadline for the Superintendent's written decision, whichever comes first.
- C. Upon receipt by the Board President/Chairperson of an appeal by the Complainant, a copy of the appeal shall be given to the Employee involved.
- D. Upon receipt of an appeal to the School Board, the School Board shall schedule a date, time and location for the appeal hearing.
- E. The following procedure shall be applicable at the appeal hearing before the School Board:
1. The School Board shall appoint a school board member or a person who is not an employee of the school district as the Hearing Officer.
 2. Within thirty (30) calendar days of an appeal being filed with the School Board, the School Board shall conduct a hearing in executive session.
 3. The Complainant, Employee and Superintendent each have the right to be represented at the hearing.
 4. The School Board shall make a verbatim record of the hearing by means of an electronic device or a court reporter. This record and any exhibits must be sealed and must remain with the Hearing Officer until the appeal process has been completed.
 5. The issue on appeal is whether the Superintendent's decision should be upheld, reversed or modified by the School Board; in the absence of a decision by the Superintendent, the School Board will make a decision on the merits of the complaint.
 6. All parties shall be given the opportunity to make an opening statement, with the Complainant being given the first opportunity, followed by the Employee and then the Superintendent.
 7. The Complainant shall present his or her case first, and the Employee shall then present his or her case. Both parties shall have the opportunity to ask questions

of the other's witnesses. The Hearing Officer and school board members may ask questions of any witness.

8. After the Complainant and the Employee have presented their respective cases, the Superintendent shall then present the basis of his/her decision which led to the appeal, if a decision was rendered. The Complainant and Employee shall have the opportunity to ask the Superintendent questions. The Hearing Officer and board members may also ask questions of the Superintendent.
9. Unless a witness is a party to the appeal, witnesses may be present only when testifying unless the Hearing Officer rules otherwise. All witnesses must take an oath or affirmation administered by the School Board President/ Chairperson, Hearing Officer or other person authorized by law to take oaths and affirmations.
10. The Hearing Officer shall admit all relevant evidence. The Hearing Officer may limit unproductive or repetitious evidence. The strict rules of evidence do not apply. *Moran v. Rapid City Area School Dist.*, 281 N.W.2d 595. 602 (S.D. 1979) (“*This [school board hearing related to teacher contract nonrenewal] does not mandate nor necessitate the use of strict evidentiary rules.*”).
11. Both parties shall be given the opportunity to make a closing statement, with the Complainant having the first opportunity, followed by the Employee, and then the Superintendent. The Complainant shall be given the opportunity for a brief rebuttal.
12. After the evidentiary hearing, the School Board shall continue to meet in executive session for deliberations. No one other than the Hearing Officer may meet with the Board during deliberations. During deliberations, the Board may seek advice from an attorney who did not represent any of the parties in the hearing. Consultation with any other person during deliberation may occur only if a representative of the Complainant, Employee and Superintendent are present. The Board may, in its sole discretion, continue the proceedings and make a final decision on the appeal at a later date.
13. Within twenty (20) calendar days of the hearing, the School Board shall render its decision and issue its written Findings of Fact, Conclusions of Law and Decision. The time frame for rendering a decision may be extended by the Board President for good cause and upon written notification to the Complainant, Employee and Superintendent. The notification shall identify the reason for the extension and the date on or before which the decision shall be rendered.
14. The decision of the School Board must be based solely on the evidence presented at the hearing and must be formalized by a motion made in open meeting. The Board will reconvene in open session. The Board may uphold, reverse, or modify the Superintendent's decision, or render a decision on the merits of the complaint in the absence of a Superintendent's decision. Findings of Fact, Conclusions of Law and Decision, consistent with the Board motion, shall be in writing and approved by the Board. The Complainant, Employee, Principal and Superintendent will receive copies after the Findings of Fact, Conclusions of Law and Decision are approved by the School Board.
15. If the Complainant is dissatisfied with the School Board's decision, the Complainant may appeal the decision by filing an appeal to the circuit court pursuant to SDCL Ch. 13-46.

State References

SD Constitution Article 6	Bill of Rights
SDCL 13-37	Special assistance and related services
SDCL 20-13	Human rights

Federal References

Public Law 94-142	Education for All Handicapped Children Act of 1975
USC Title 20 §1681-1688	Nondiscrimination on the basis of sex in educational programs and activities
USC Title 20 §6301 et. seq.	Every Student Succeeds Act, Elementary and Secondary Act of 1965
USC Title 29 Chapter 14	Age discrimination in employment
USC Title 29 Chapter 16	Vocational rehabilitation
USC Title 42 §11431	McKinney-Vento Homeless Children Act
USC Title 42 §2000	Civil Rights Act of 1964 (Prohibits discrimination by covered employers on the basis of race, color, religion, sex or national origin)
USC Title 42 §6101-6103	Age discrimination in federally assisted programs

Original Adopted Date: February 2018

Reviewed: January 2018

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If a meeting was not held, explain why not:

Resolution requested/sought by complainant: _____

Date _____ Complainant _____

Date _____ School Official Completing the Report Form _____

Step 1 mutually agreeable resolution was reached:

Yes _____ No _____

If resolution, manner in which the complaint was resolved:

Complainant (initial/date) _____ Employee (initial/date) _____

If no mutually agreed upon resolution was reached, I request a decision by the Principal on the merits of the complaint:

Yes _____ No _____ Complainant (initial _____) Date _____

Yes _____ No _____ Employee (initial _____) Date _____

Original Adopted Date: February 2018
Reviewed: January 2018
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**NON-DISCRIMINATION IN FEDERAL PROGRAMS
COMPLAINT APPEAL TO THE SUPERINTENDENT**

I/We Appeal the Principal's Step 1 decision for the following reason(s): [With specificity, Complainant should state how or why the Complainant believes the Principal's decision is wrong] :

ATTACH A COPY OF THE COMPLAINT REPORT AND THE PRINCIPAL'S DECISION.

Date Complainant

Date Received Superintendent

Original Adopted Date: February 2018
Reviewed: January 2018
Revised: February 2018

**NON-DISCRIMINATION IN FEDERAL PROGRAMS
COMPLAINT APPEAL TO THE SCHOOL BOARD**

I/We Appeal the Superintendent's step 2 decision for the following reason(s): [With specificity, Complainant should state how or why the Complainant believes the Superintendent's decision is wrong]:

ATTACH A COPY OF THE COMPLAINT, PRINCIPAL'S DECISION, APPEAL TO THE SUPERINTENDENT, STEP 2 WRITTEN RESPONSE(S) IF ANY, AND THE SUPERINTENDENT'S DECISION.

Date Complainant

Date Received Superintendent

Original Adopted Date: February 2018
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HARASSMENT

SECTION 1 – Policy Statement

The District is committed to a school environment which is free from all types of harassment, including sexual harassment, and conducive to all students' educational opportunities. All types of harassment can inhibit a student's educational opportunities and an employee's work. Harassment of students attending school in the District or students from other schools who are at a District activity, and harassment of school employees, school volunteers, parents, guests, visitors and vendors of the District shall also not be tolerated and is strictly prohibited.

All students, school employees, school volunteers, parents, guests, visitors and vendors shall conduct themselves in a civil and responsible manner and in a manner consistent with school policies. This policy prohibiting harassment shall apply to all students, school employees, school volunteers, parents, guests, visitors and vendors while on school property, while attending or participating in school activities, on school-owned property or on non-school property, while in any school-owned or leased vehicle, while at a school bus stop, or when in a private vehicle located on school property during school or during school activities.

The District shall investigate all reported instances involving harassment. Attempts to informally or voluntarily resolve the complaint should not delay the commencement of the District's investigation. Unless a different person is designated by the Superintendent to conduct the investigation, the school administrator of the school attendance center where the harassment is alleged to have occurred is responsible for investigating the alleged harassment. Allegations of harassment may also be reported by the administration to other authorities, including but not limited to law enforcement.

The District will maintain confidentiality to the maximum extent possible under the circumstances. However, a person reporting harassing conduct must understand that should the administrator who is investigating the report determine there is reasonable cause to suspect that harassment did occur which could result in administrative discipline or a referral to the School Board, the person alleged to have harassed another person may have the right to know the identity of the person(s) making the report in order that he/ she may have an opportunity to defend himself/herself.

The District strictly prohibits retaliation against any person because he or she has made a report, testified, assisted, or participated in the investigation of a report of alleged harassment. Retaliation includes, but is not limited to, any form of verbal or physical reprisal or adverse pressure. The person(s) alleged to have harassed another person shall not directly or indirectly (such as through a third person) harass, pressure, or retaliate against any other person because of the complaint being reported. A violation of this provision may lead to separate disciplinary action based on the retaliation. Any person who believes he or she is being subjected to retaliation because of his or her

involvement with a harassment report should immediately contact a school administrator.

Students who violate this policy shall be subject to appropriate disciplinary action, up to and including expulsion. Employees who violate this policy shall be subject to appropriate disciplinary action, up to and including termination of employment. School volunteers, parents, guests, visitors, and vendors who violate this policy may be prohibited from being on school property.

Complaints against school employees and complaints related to bullying are addressed through other school district policies and not through this policy.

SECTION 2 –Harassment Defined

Harassment

Harassment is a form of employment discrimination that violates Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, (ADEA), and the Americans with Disabilities Act of 1990, (ADA).

Harassment is unwelcome conduct that is based on race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information. Harassment becomes unlawful where 1) enduring the offensive conduct becomes a condition of continued employment, or 2) the conduct is severe or pervasive enough to create an environment that a reasonable person would consider intimidating, hostile, or abusive.

Petty slights, annoyances, and isolated incidents (unless extremely serious) will not rise to the level of illegality. To be unlawful, the conduct must create an environment that would be intimidating, hostile, or offensive to reasonable people.

Offensive conduct may include, but is no limited to, offensive jokes, slurs, epithets or name-calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with a person's performance.

Sexual Harassment

Sexual harassment is defined as sexually oriented words and actions which tend to annoy, alarm or be physically or verbally abusive toward another person and which serve no legitimate or valid purpose regardless of the intent of the person accused of the sexually harassing conduct. Not all harassment falls within the definition of sexual harassment (i.e., harassment that is of a sexual nature). Other laws, regulations and policies also prohibit inappropriate conduct and provide a means for addressing inappropriate conduct should it occur.

Sexual harassment is a specific type of harassment which is prohibited under this policy. Examples of sexual harassment include, but not limited to:

1. Unwelcome sexual flirtations, advances or propositions;
2. Verbal comments, jokes, or abuse of a sexual nature;
3. Graphic verbal comments about an individual's body;
4. Sexually degrading words used to describe an individual;

5. Displaying pornographic material;
6. Physical contact or language of a sexually suggestive nature.

SECTION 3 – Harassment Reporting Procedure

Any individual who believes that he or she has been or is being subjected to any type of harassment, including sexual harassment, or has reason to suspect another person has been or is being subjected to harassment should immediately report it to a teacher, guidance counselor, or school administrator. The report may be made verbally or in writing. A report may be made anonymously, although disciplinary action may not be based solely on an anonymous report. If disciplinary action is being requested, the individual reporting the harassment will be asked to either submit a signed written complaint or sign a completed *Initial Complaint Form ACAC - E(1)*, verifying the accuracy of its content. The written complaint or *Initial Complaint Form ACAC - E(1)* must include the following:

- the date the written complaint was filed or the *Initial Complaint Form ACAC - E(1)* was completed,
- the school employee receiving the complaint (if applicable),
- the name of the person reporting the harassment,
- the address/phone # of the person reporting the harassment,
- the specific conduct or nature of the harassment complaint including the person(s) alleged to have harassed the complaining party or another person, the date(s) and location where the conduct occurred, witnesses, etc.,
- the date the school employee completed the form (if applicable),
- the date and signature of the person reporting the harassment .

If the signed written complaint was given to a teacher or guidance counselor, or if the *Initial Complaint Form ACAC - E(1)* was completed by a teacher or guidance counselor, the teacher or guidance counselor shall forward the complaint or *Initial Complaint Form ACAC - E(1)* to the teacher's building school administrator.

SECTION 4 – Procedure for Addressing Harassment Complaints

STEP 1: School Administrator Investigation and Determination.

Should there be a report (See *Initial Complaint Form ACAC - E(1)*) which alleges a District student, employee, school volunteer, parent, guest, visitor or vendor has been subjected to harassment, an investigation into the alleged harassment will be initiated. The District's investigation (See *Investigation Report Form ACAC - E(2)*) may include, but is not limited to, such things as interviewing individuals with actual or possible knowledge regarding the conduct in question, identifying facts related to the conduct in question, identifying when and over what period of time the conduct is to have occurred, determining whether the conduct negatively affects the educational opportunities or employment condition of the victim, identifying prior history of a similar nature by any of the individuals involved, and attempting to obtain possible verification from other persons. The District's investigation shall include due process for the person(s) being accused of the harassment. The investigation by the school administrator responsible for the investigation shall be conducted promptly and completed in a reasonable time frame given the nature of the complaint. Unless the nature of the complaint and investigation dictate otherwise, the investigation should be completed and determination

made by the school administrator on the merits of the complaint within thirty (30) calendar days of receipt of the complaint.

Pending the outcome of the investigation the school administrator responsible for conducting the investigation may take such action consistent with school policy and state law as deemed appropriate in order to facilitate the investigation and protect the rights of all persons involved. If there is reasonable suspicion to believe that a third person harassed a student, employee or guest while at school or at a school activity on non-school property in violation of this policy, the administration may prohibit that person from being on school property, riding in a school vehicle, or attending school activities.

At the conclusion of the investigation, the school administrator shall make a determination as to whether harassment did occur or whether the facts are insufficient to make the determination that harassment occurred. The Principal will notify, either verbally or in writing (See *Notification of Findings ACAC-E(3)*), of his or her determination. Should the school administrator conclude that harassment did occur, the school administrator shall take such action as deemed appropriate, which may include imposing disciplinary consequences on the person found to have violated this policy prohibiting harassment.

STEP 2: Appeal to the Superintendent

The following procedure shall be used to address an appeal of the school administrator's decision in Step 1 to the Superintendent:

1. If either party is not satisfied with the school administrator's decision, or if the school administrator does not render a written decision within fourteen (14) calendar days of the request for a decision on the merits of the complaint, that party may appeal to the Superintendent by filing form *Complaint Appeal to the Superintendent ACAC - E4*. The appeal must be filed within ten (10) calendar days of receipt of the school administrator's written decision, or ten (10) calendar days of the deadline for the school administrator's written decision, whichever comes first. The appealing party must attach the school administrator's written decision.
2. Within fourteen (14) calendar days from the date the appeal was filed, the Superintendent shall render a decision in writing. All parties shall receive copies of the decision. The Superintendent shall uphold, reverse, modify the school administrator's decision, or the Superintendent may refer the matter back to the school administrator for further investigation and supplemental decision which decision may restate, modify or reverse the school administrator's initial decision. A supplemental decision by the school administrator after a referral back to the school administrator is subject to appeal to the Superintendent. The time frame for rendering a decision by the Superintendent may be extended by the Superintendent for good cause and upon written notification to all parties, which notification shall identify the reason for the extension and the date on or before which the decision shall be rendered.

STEP 3: Appeal to the Board

If either party is not satisfied with the Superintendent's decision, or if the Superintendent does not render a written decision within fourteen (14) calendar days of the receipt of the appeal, that party may appeal to the School Board by filing with the Business Manager using form *Complaint Appeal to the School Board ACAC-E(5)* within ten (10) calendar days of receipt of the Superintendent's written decision, or ten (10) calendar days of the deadline for the Superintendent's written decision, whichever comes first. The appeal shall be in writing and the appealing party must attach to the appeal the school administrator's written decision, the appeal to the Superintendent, and the Superintendent's written decision or notice of the Superintendent's failure to render a written decision.

The following procedure shall be used by the Board to address an appeal of the Superintendent's decision on the merits related to a harassment complaint:

1. Upon receipt by the Board President of an appeal by the Complainant, a copy of the appeal shall be given to the person alleged to have violated the harassment policy.
2. Upon receipt of an appeal, the Board shall at its next meeting schedule a date, time and location for the appeal hearing.
3. The following procedure shall be applicable at the appeal hearing before the Board:
 - a. The Board shall appoint a board member or a person who is not an employee of the school district as the hearing officer;
 - b. Within thirty (30) calendar days of an appeal being filed with the Board, the Board shall conduct a hearing in executive session;
 - c. The Complainant, person alleged to have violated the harassment policy, and Superintendent each have the right to be represented at the hearing;
 - d. The Board shall make a verbatim record of the hearing by means of an electronic or mechanical device or by court reporter. This record and any exhibits must be sealed and must remain with the hearing officer until the appeal process has been completed;
 - e. The issue on appeal is whether the Superintendent's decision should be upheld, reversed or modified;
 - f. All parties shall be given the opportunity to make an opening statement, with the appealing party being given the first opportunity, followed by the other party, and then the Superintendent;
 - g. The appealing party shall present his or her case first, and the other party shall then present his or her case. Both parties shall have the opportunity to ask questions of the other's witnesses. The hearing officer and board members may ask questions of any witness;
 - h. The Superintendent shall present the basis of his/her decision which led to the appeal. Both parties shall have the opportunity to ask the Superintendent questions. The hearing officer and board members may also ask questions of the Superintendent;
 - i. Unless a witness is a party to the appeal, witnesses may be present only when testifying unless the hearing officer rules otherwise. All witnesses must take an oath or affirmation administered by the School Board president, hearing officer or other person authorized by law to take oaths and affirmations;
 - j. The hearing officer shall admit all relevant evidence. The hearing officer may limit unproductive or repetitious evidence. The strict rules of evidence do not apply. *Moran v. Rapid City Area School Dist.*, 281 N.W.2d 595. 602 (S.D. 1979).

- k. All parties shall be given the opportunity to make a closing statement, with the appealing party having the first opportunity, followed by the other party, and then the Superintendent. The appealing party shall be given the opportunity for a brief rebuttal;
- l. After the evidentiary hearing, the Board shall continue to meet in executive session for deliberations. No one other than the hearing officer may meet with the Board during deliberations. The Board may seek advice during deliberation from an attorney who has not represented any of the parties to the hearing. Consultation with any other person during deliberation may occur only if a representative of both parties and Superintendent are present. The Board may, in its sole discretion, continue the proceedings and make a final decision on the appeal at a later date. Within twenty (20) calendar days of the hearing, the Board shall render its decision and issue its written Findings of Fact, Conclusions of Law and Decision. The time frame for rendering a decision may be extended by the Board President for good cause and upon written notification to both parties and the Superintendent, and the notification shall identify the reason for the extension and the date on or before which the decision shall be rendered;
- m. The decision of the School Board must be based solely on the evidence presented at the hearing and must be formalized by a motion made in open meeting. The Board will convene in open session and a motion to uphold, reverse, or modify the Superintendent's decision shall be made and voted upon. Findings of Fact, Conclusions of Law and Decision, consistent with the Board motion shall be in writing and approved by the Board. Both parties, the school administrator and the Superintendent will receive copies after the Findings of Fact, Conclusions of Law and Decision are approved by the Board.
- n. Following the Board hearing, should the Board determine there has been a violation of this policy prohibiting harassment, Board action may include but is not limited to the following: (1) suspend or expel a student from any or all school programs, including but not limited to classes, extracurricular activities, or attendance at school activities; (2) pursuant to statute, reprimand, suspend without pay, or terminate the contract of an employee, or (3) prohibit a third person from being on school property or at school activities for such time as may be determined by the Board.
- o. If either party is dissatisfied with the Board's decision, that party may appeal the decision by filing an appeal pursuant to law.

State References

Moran v. Rapid City School Dist. Employee hearing due process

Federal References

USC Title 20 §1681-1688 Nondiscrimination on the Basis of Sex in Educational Programs and Activities;

Original Adopted Date: July 2003
 Reviewed: January 2018
 Revised: February 2018

BULLYING

SECTION 1 – Policy Statement

The District is committed to maintaining a constructive, safe, and bullying-free school climate that is conducive to all person's educational opportunities and which fosters an environment in which all students are treated with respect and dignity. Bullying can inhibit a person's educational opportunities and may also have long-term negative effects on a person. Bullying shall not be tolerated and is strictly prohibited. Bullying of persons from other schools who are at a District activity, parents, school employees, guests, visitors, volunteers and vendors of the District shall also not be tolerated and is strictly prohibited.

This policy shall not be interpreted or applied to prohibit civil exchange of opinions or debate protected under the state or federal constitutions if the opinion expressed does not otherwise materially or substantially disrupt the education process or intrude upon the rights of others. However, conduct which substantially interferes with the work of the school, causes material and substantial interference with school work and discipline, and might reasonably have led school authorities to forecast substantial disruption of or material interference with school activities is not constitutionally protected speech and is therefore prohibited under this policy.

All students, parents, employees, guests, visitors, volunteers and vendors shall conduct themselves in a civil and responsible manner and in a manner consistent with school policies related to student, parent, employee and visitor conduct. This policy prohibiting bullying shall apply to all students, parents, employees, guests, visitors, volunteers and vendors while on school property, while attending or participating in school activities, on school-owned property or on non-school property, while in any school-owned or leased vehicle, while at a school bus stop, or when in a private vehicle located on school property during school or during school activities..

The District shall investigate all reported instances involving bullying. It is the goal of the Tea Area School District to resolve complaints of bullying at the lowest level possible. Preliminary steps may include to a) tell the person to stop the bullying; b) if telling the person to stop makes the person bullied uncomfortable, her or she should contact the teacher, counselor, or principal; c) students and parents need to report bullying. The school expects and encourages student and parents who become aware of an act of bullying to report it to a teacher, counselor or school principal for further investigation; d) upon learning of a bullying incident, the teacher, counselor or principal shall interview both students and thorough investigate and complete "The Initial Complaint Investigation Form".

Initial complaints will be processed by the school counselor. Unless a different person is designated by the Superintendent to conduct the investigation, the Principal of the school attendance center where the bullying is alleged to have occurred is responsible

for investigating the alleged bullying. Allegations of bullying may also be reported by the administration to other authorities, including but not limited to law enforcement.

Persons who violate this policy shall be subject to appropriate disciplinary action, up to and including expulsion. Employees who violate this policy shall be subject to appropriate disciplinary action, up to and including termination of employment. Parents, guests, visitors, volunteers, and vendors who violate this policy may be prohibited from being on school property.

Pursuant to state law:

- A. any school district employee, school volunteer, student, or parent who promptly reports in good faith an act of bullying to the appropriate school district official as designated in the school district's policy, and who makes the report in compliance with the provisions of the school district's policy, is immune from any cause of action for damages arising from failure to remedy the reported incident, and
- B. no cause of action is created against the school district, school district employee, school volunteer, student, or parent unless there has been substantial noncompliance with the school district's policy which results in injury to a person.

The District will maintain confidentiality to the maximum extent possible under the circumstances. However, a person reporting bullying conduct must understand that should the administrator who is investigating the report determine there is reasonable cause to suspect that bullying did occur which could result in administrative discipline or a referral to the School Board, the person alleged to have abused the other person may have the right to know the identity of the person(s) making the report in order that he/she may have an opportunity to defend himself/herself.

The District strictly prohibits retaliation against any person because he or she has made a report, testified, assisted, or participated in the investigation of a report of alleged bullying. Retaliation includes, but is not limited to, any form of verbal or physical reprisal or adverse pressure. The person(s) alleged to have bullied another person shall not directly or indirectly (such as through another person) harass, pressure, or retaliate against any other person because of the complaint being reported. A violation of this provision may lead to separate disciplinary action based on the retaliation. Any person who believes he or she is being subjected to retaliation because of his or her involvement with a bullying report should immediately contact a school administrator.

Complaints related to Harassment including Sexual Harassment are addressed through other school district policies and not through this policy.

SECTION 2 – Bullying Defined

- A. Bullying is when a person is exposed, repeatedly and over time, to negative actions on the part of one or more other persons, and he or she has difficulty defending himself or herself. The definition of bullying has three major components:
 - 1. It is aggressive behavior that involves unwanted, negative actions.

2. Bullying typically involves a pattern of behavior repeated over time.
3. Bullying involves an imbalance of power or strength.
4. Acts of bullying and bullying behaviors:
 - a. have the purpose or effect of creating an intimidating, hostile or offensive school environment for one or more students, parents, employees, guests, visitors, volunteers or vendors, and/or
 - b. have the purpose or effect of substantially or unreasonably interfering with a student's educational opportunities (i.e., academic, co-curricular activities, extra-curricular activities, and social opportunities, etc. within the school environment), employee's and volunteer's environment or performance, or access by parents, guests, visitors or vendors, and/or
 - c. place a person in reasonable fear of harm to his or her person or damage to his or her property, and/or
 - d. cause physical hurt or psychological distress to a person, and/or
 - e. constitute retaliation against any person for asserting or alleging an act of bullying, and/or
 - f. disrupt the orderly operation of a school.

B. Bullying conduct includes threats, intimidation, physical violence, theft, destruction of property, hazing, stalking (SDCL 22-19A-1), harassment (SDCL 22-19A-4), and threatening or harassing contact by telephone or other communication devices, commonly referred to as cyberbullying (SDCL 49-31-31). Neither the physical location nor the time of day of any incident involving the use of computers or other electronic devices is a defense to any disciplinary action taken by the School District for conduct determined to meet the definition of bullying in SDCL 13-32-15.

1. Hazing defined: any verbal or physical act or acts done on school property or at a school activity which are directed toward another person and done for the purpose of initiation into any group, regardless of whether the group is a school sanctioned organization, when the act or acts causes or may create a reasonable risk of causing mental, emotional or physical harm to the person who is the recipient of the act or acts.
2. Stalking defined: willfully, maliciously, and repeatedly following or harassing another person; making a credible threat to another person with the intent to place that person in reasonable fear of death or great bodily injury; or willfully, maliciously, and repeatedly harassing another person by means of any verbal, electronic, digital media, mechanical, telegraphic, or written communication.
3. Harass defined: a knowing and willful course of conduct directed at a specific person which seriously alarms, annoys, or stresses the person, and which serves no legitimate purpose.

4. Threatening or harassing contacts by telephone or other electronic communication device defined: using or knowingly permitting a telephone or other electronic communication device under his or her control for any of the following purposes:
 - a. to contact another person with intent to terrorize, intimidate, threaten, harass or annoy such person by using obscene or lewd language or by suggesting a lewd or lascivious act,
 - b. to contact another person with intent to threaten to inflict physical harm or injury to any person or property,
 - c. to contact another person with intent to extort money or other things of value,
 - d. to contact another person with intent to disturb that person by repeated anonymous telephone calls or intentionally failing to replace the receiver or disengage the telephone connection.

SECTION 3 –Reporting Procedure

Any individual who believes that he or she has been or is being subjected to bullying or has reason to suspect another person has been or is being subjected to bullying should immediately report it to any staff member in the building. The report must be forwarded to the school counselor as soon as possible. The report may be made verbally or in writing. A report may be made anonymously, although disciplinary action may not be based solely on an anonymous report. If disciplinary action is being requested, the individual reporting the bullying will be asked to either submit a signed written complaint or sign a completed *Initial Complaint Report Form ACAC-E(1)*, verifying the accuracy of its content. The written complaint must include the following:

- the date the written complaint was filed or the *Initial Complaint Form* was completed,
- the school employee receiving the complaint (if applicable),
- the name of the person reporting the bullying,
- the address/phone # of the person reporting the bullying,
- the specific conduct or nature of the bullying complaint including the person(s) alleged to have bullied the complaining party or another person, the date(s) and location where the conduct occurred, witnesses, etc.,
- the date the school employee completed the form (if applicable),
- the date and signature of the person reporting the bullying.

If the signed written complaint was given to a teacher, or if the *Initial Complaint Form* was completed by a teacher, the teacher shall forward the complaint or *Initial Complaint Form* to the building counselor.

SECTION 4 – Procedure for Addressing Bullying Complaints

STEP 1: Counselor or Designee

All initial student bullying reports will be handled by the school counselor or designee who will determine if the act is bullying or conflict management. It is the District's goal

to have the conflict resolved at this level. The counselor or designee will annotate the conflict and resolution or refer the complaint to the building principal using the *Initial Complaint Form ACAC - E(1)* for further review if it cannot be resolved at this level.

STEP 2: Principal or Assistant Principal

Should there be a report (See *Initial Complaint Form ACAC - E(1)*) which alleges a District student, parent, employee, guest, visitor, volunteer or vendor has been subjected to bullying, an investigation into the alleged bullying will be initiated. The District's investigation (See *Investigation Report Form ACAC - E(2)*) may include, but is not limited to, such things as interviewing individuals with actual or possible knowledge regarding the conduct in question, identifying facts related to the conduct in question, identifying when and over what period of time the conduct is to have occurred, determining whether the conduct negatively affects the educational opportunities or employment condition of the victim, identifying prior history of a similar nature by any of the individuals involved, and attempting to obtain possible verification from other persons. The District's investigation shall include due process for the person(s) being accused of bullying. The investigation shall be conducted promptly and completed in a reasonable time frame given the nature of the complaint.

Pending the outcome of the investigation the school administrator responsible for conducting the investigation may take such action consistent with school policy and state law as deemed appropriate in order to facilitate the investigation and protect the rights of all persons involved. If there is reasonable suspicion to believe that a person bullied another person while at school or at a school activity on non-school property in violation of this policy, the administration may prohibit that person from being on school property, riding in a school vehicle, or attending school activities.

At the conclusion of the investigation, the Principal shall make a determination as to whether bullying did occur or whether the facts are insufficient to determine that bullying occurred. The Principal will notify, either verbally or in writing (See *Notification of Findings ACAC-E(3)*) of his or her determination. Should the Principal conclude that bullying did occur, the Principal shall take such action as deemed appropriate, which may include imposing disciplinary consequences on the person found to have violated this policy prohibiting bullying.

STEP 3: Appeal to the Superintendent

The following procedure shall be used to address an appeal of the Principal's decision to the Superintendent:

1. If either party is not satisfied with the Principal's decision, or if the Principal does not render a written decision within fourteen (14) calendar days of the request for a decision on the merits of the complaint, that party may appeal to the Superintendent by filing form *Complaint Appeal to the Superintendent ACAC-E(4)*. The appeal must be filed within ten (10) calendar days of receipt of the Principal's written decision, or ten (10) calendar days of the deadline for the Principal's written decision, whichever comes first. The appealing party must attach the Principal's written decision.
2. Within fourteen (14) calendar days from the date the appeal was filed, the Superintendent shall render a decision in writing. All parties shall receive copies of

the decision. The Superintendent may uphold, reverse, modify the principal's decision, or the Superintendent may refer the matter back to the Principal for further investigation and supplemental decision which decision may restate, modify or reverse the Principal's initial decision. A supplemental decision by the Principal after a referral back to the Principal is subject to appeal to the Superintendent. The time frame for rendering a decision by the Superintendent may be extended by the Superintendent for good cause and upon written notification to all parties, which notification shall identify the reason for the extension and the date on or before which the decision shall be rendered.

STEP 4: Appeal to the Board

If either party is not satisfied with the Superintendent's decision, or if the Superintendent does not render a written decision within fourteen (14) calendar days of the receipt of the appeal, that party may appeal to the School Board by filing with the Business Manager using form *Complaint Appeal to the School Board ACAC-E(5)* within ten (10) calendar days of receipt of the Superintendent's written decision, or ten (10) calendar days of the deadline for the Superintendent's written decision, whichever comes first. The appeal shall be in writing and the appealing party must attach to the appeal the Principal's written decision, the appeal to the Superintendent, and the Superintendent's written decision or notice of the Superintendent's failure to render a written decision.

The following procedure shall be used by the Board to address an appeal of the Superintendent's decision on the merits related to a bullying complaint:

1. Upon receipt by the Board President/Chairperson of an appeal by the Complainant, a copy of the appeal shall be given to the person alleged to have violated the bullying policy.
2. Upon receipt of an appeal, the Board shall at its next meeting schedule a date, time and location for the appeal hearing.
3. The following procedure shall be applicable at the appeal hearing before the Board:
 - a. The Board shall appoint a board member or a person who is not an employee of the school district as the hearing officer;
 - b. Within thirty (30) calendar days of an appeal being filed with the Board, the Board shall conduct a hearing in executive session;
 - c. The Complainant, person alleged to have violated the bullying policy, and Superintendent each have the right to be represented at the hearing;
 - d. The Board shall make a verbatim record of the hearing by means of an electronic or mechanical device or by court reporter. This record and any exhibits must be sealed and must remain with the hearing officer until the appeal process has been completed;
 - e. The issue on appeal is whether the Superintendent's decision should be upheld, reversed or modified;

- f. All parties shall be given the opportunity to make an opening statement, with the appealing party being given the first opportunity, followed by the other party, and then the Superintendent;
- g. The appealing party shall present his or her case first, and the other party shall then present his or her case. Both parties shall have the opportunity to ask questions of the other's witnesses. The hearing officer and board members may ask questions of any witness;
- h. The Superintendent shall present the basis of his/her decision which led to the appeal. Both parties shall have the opportunity to ask the Superintendent questions. The hearing officer and board members may also ask questions of the Superintendent;
- i. Unless a witness is a party to the appeal, witnesses may be present only when testifying unless the hearing officer rules otherwise. All witnesses must take an oath or affirmation administered by the School Board president, hearing officer or other person authorized by law to take oaths and affirmations;
- j. The hearing officer shall admit all relevant evidence. The hearing officer may limit unproductive or repetitious evidence. The strict rules of evidence do not apply. *Moran v. Rapid City Area School Dist.*, 281 N.W.2d 595. 602 (S.D. 1979).
- k. All parties shall be given the opportunity to make a closing statement, with the appealing party having the first opportunity, followed by the other party, and then the Superintendent. The appealing party shall be given the opportunity for a brief rebuttal;
- l. After the evidentiary hearing, the Board shall continue to meet in executive session for deliberations. No one other than the hearing officer may meet with the Board during deliberations. The Board may seek advice during deliberation from an attorney who has not represented any of the parties to the hearing. Consultation with any other person during deliberation may occur only if a representative of both parties and Superintendent are present. The Board may, in its sole discretion, continue the proceedings and make a final decision on the appeal at a later date; Within twenty (20) calendar days of the hearing, the Board shall render its decision and issue its written Findings of Fact, Conclusions of Law and Decision. The time frame for rendering a decision may be extended by the Board President for good cause and upon written notification to both parties and the Superintendent, and the notification shall identify the reason for the extension and the date on or before which the decision shall be rendered;
- m. The decision of the School Board must be based solely on the evidence presented at the hearing and must be formalized by a motion made in open meeting. The Board will convene in open session and a motion to uphold, reverse, or modify the Superintendent's decision shall be made and voted upon. Findings of Fact, Conclusions of Law and Decision, consistent with the Board motion shall be in writing and approved by the Board. Both parties, the Principal

and the Superintendent will receive copies after the Findings of Fact, Conclusions of Law and Decision are approved by the Board.

- n. Following the Board hearing, should the Board determine there has been a violation of this policy prohibiting bullying, Board action may include but is not limited to the following: (1) suspend or expel a student from any or all school programs, including but not limited to classes, extracurricular activities, or attendance at school activities; (2) pursuant to statute, reprimand, suspend without pay, or terminate the contract of an employee, or (3) prohibit a person from being on school property or at school activities for such time as may be determined by the Board.
- o. If either party is dissatisfied with the Board's decision, that party may appeal the decision by filing an appeal to circuit court pursuant to SDCL 13-46-1.

State References

Moran v. Rapid City School Dist.	Employee hearing due process
SDCL 13-32-14	Adoption of bullying policy
SDCL 13-32-15	Bullying defined
SDCL 13-32-16	Bullying policy requirements
SDCL 13-32-17	Action for damages from bullying – Immunity for reporting
SDCL 13-32-18	Incidents involving electronic devices
SDCL 13-32-19	Model bullying policy
SDCL 22-19A	Stalking
SDCL 49-31-31	Threatening or harassing contacts by telephone or other electronic communication device

Original Adopted Date: July 2003

Reviewed: January 2018

Revised: February 2018

INITIAL COMPLAINT REPORT FORM

Date form completed: _____

Form completed by: _____

Person reporting the Complaint: _____

Address/phone number of the person reporting the Complaint:

Date of alleged incident/conduct: _____

Name of person(s) who engaged in conduct: _____

Nature of Complaint:

- Violation of Harassment Policy ACAA
- Violation of Bullying Policy ACAB

With specificity identify the basis of the complaint (i.e., what, when, where, witnesses, and any other pertinent information. (Use additional sheets if necessary.)

Date Signature of School Employee Completing Report Form

Date Signature of Person Reporting Complaint

<p><u>Administrative Use Only</u></p> <p>Date Received by Authorized Personnel: _____</p> <p>Authorized Personnel Name: _____</p> <p>Authorized Personnel Signature: _____</p>
--

INVESTIGATION REPORT FORM

Receipt of Initial Complaint Report Form ACAC-E(1):

Administrator: _____

Date: _____

Nature of Complaint:

Violation of Harassment Policy ACAA

Violation of Bullying Policy ACAB

1. Investigation procedures (include date of meeting, evidence presented, names of witnesses, any additional information gathered:

Witness or Source	Date/Time	Summary Description

2. Determination:

3. Identify Resolution(s):

Date

Signature of Administrator

Policy

File: ACAC-E(3)

NOTIFICATION OF FINDINGS

Date: _____

Dear: _____,

On _____(date), I contacted you regarding the incident described below.

- Violation of Harassment Policy ACAA
- Violation of Bullying Policy ACAB

A discussion was held with _____ (child's name) in regard to the alleged incident.

Summary of Incident:

Date, Time, Location: _____

Details: _____

Summary of Findings with FERPA guidelines:

Summary of Resolution:

Thank you for your cooperation in this matter.

Respectfully,

Administrator

Phone Number

Date Mailed: _____

cc: Building Administrator

COMPLAINT APPEAL TO SUPERINTENDENT

Nature of Complaint:

- Violation of Harassment Policy ACAA
- Violation of Bullying Policy ACAB

I/we appeal the decision of the Principal (or designee) for the following reason(s): [With specificity, state how or why you believe the Principal's (or designee's) decision is wrong]:

ATTACH COPY OF NOTIFICATION OF FINDINGS ACAC-E(3).

Date

Signature of Complainant

Date Received

Superintendent

Administrative Use Only

- Initial Complaint Form ACAC-E(1)
- Investigation Report Form (Principal) ACAC-E(2)
- Notification of Findings Form (Principal) ACAC-E(3)
- Complaint Appeal to Superintendent ACAC-E(4)

COMPLAINT APPEAL TO SCHOOL BOARD

Nature of Complaint:

- Violation of Harassment Policy ACAA
- Violation of Bullying Policy ACAB

I/we appeal the decision of the Superintendent for the following reason(s): [With specificity, state how or why you believe the Superintendent's decision is wrong]:

ATTACH COPY OF PRINCIPAL'S NOTIFICATION OF FINDINGS, APPEAL TO SUPERINTENDENT, AND SUPERINTENDENT NOTIFICATION OF FINDINGS.

Date Signature of Complainant

Date Received Business Manager

<u>Administrative Use Only</u> <input type="checkbox"/> Initial Complaint Form ACAC-E(1) <input type="checkbox"/> Investigation Report Form (Principal) ACAC-E(2) <input type="checkbox"/> Notification of Findings Form (Principal) ACAC-E(3) <input type="checkbox"/> Complaint Appeal to Superintendent ACAC-E(4) <input type="checkbox"/> Investigation Report Form (Superintendent) ACAC-E(2) <input type="checkbox"/> Notification of Findings Form (Superintendent) ACAC-E(3) <input type="checkbox"/> Complaint Appeal to School Board ACAC-E(5)

NONDISCRIMINATION ON THE BASIS OF DISABILITY

It will be the policy of the District to adhere to the concept of nondiscrimination on the basis of disabling conditions. The Board will support section 504 of the Rehabilitation Act of 1973. In doing so the Board will:

1. Not discriminate against a qualified person with a disability in any aspect of school division employment solely on the basis of disability.
2. Make facilities, programs and activities accessible, usable, and open to qualified persons with disabilities.
3. Provide free appropriate education at elementary and secondary levels, including nonacademic and extracurricular services and activities, to qualified persons with disabilities.
4. Not exclude any qualified person with disabilities solely on the basis of disability from participation in any preschool education or day care program or activity or any adult education or vocational program or activity.
5. Provide each qualified person with disabilities with the same health, welfare, and social services as are provided other persons.

The Board holds the general view that:

1. Discrimination against a qualified person with disabilities solely on the basis of disability is unfair.
2. To the extent reasonably possible, qualified persons with disabilities should be in the mainstream of life in a school community.

Accordingly, employees of the school district will comply with the above requirements of the law and any regulations approved by the Board or its administration for ensuring a policy of nondiscrimination on the sole basis of disability. The Board designates the Superintendent or Superintendent's designee to act as the school district's compliance officer for employees and students.

No person in the district will, on the basis of disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activities.

EDUCATIONAL PHILOSOPHY

In today's society, education is a continuous process of learning, not only for the present but for the future. Therefore, the Board will provide an educational environment that promotes and enhances learning as a life-long endeavor. In addition, the Board believes that education is not just the development and refinement of mental capacity but a process that assists the students in meeting their physical, social, aesthetic, and emotional requirements.

The Board will strive to provide stimulation and assistance so that each child develops in accordance to his or her individual abilities, interests and potential. The responsibility of the school, therefore, is to help guide the individual in the many varied educational experiences so that he or she can develop into a wholesome, happy and productive human being.

The Board recognizes the importance of the home as an influence upon the child and believes that a sympathetic, cooperative attitude between the teacher and the parent or guardian is necessary in the development of a student's integrated personality.

The total staff of the school system constitutes an inestimable and lasting force in the development of the student. The teacher is the most significant influence in the school and must, therefore, possess and demonstrate dedication, enthusiasm and sensitivity. It is primarily the teacher's responsibility to provide the learning environment in the school that fosters maximum student growth and reflects individual differences.

It is further realized that mutual rapport among the home, student, staff, administration, School Board and total community is necessary to implement this policy.

Original Adopted Date: July 2003
Reviewed: January 2018
Revised: February 2018

WELLNESS POLICY

Rationale

There are many nutrition and wellness related concerns in our school and community. The health and well-being of our children are the primary goals of everyone in a school system to prepare children for long-term health and productivity. A healthy school environment goes beyond school meals. Living a healthy lifestyle requires a combination of healthy choices, nutrition knowledge and physical activity. This combination not only helps insure physical health, but also mental well-being.

Nutrition Education

The primary goal of nutrition education is to influence students' eating behaviors by teaching, educating, and practicing wiser food choices related to their health. Tea Area School District 41-5 will use the following to provide nutrition education from preschool through grade 12:

- Curriculum mapping will coordinate pre-K-12 units and lessons to provide a meaningful scope and sequence of nutrition and wellness education.
- Students in grades pre-K -12 will receive nutrition education that is interactive and teaches the skills they need to adopt healthy eating behaviors.
- Nutrition education will be offered in the school dining room as well as in the classroom, with coordination between the foodservice staff and teachers.
- Students receive consistent and regular nutrition messages throughout the school, classroom, and cafeteria. Information will also be distributed to parents and other community members.
- District health education curriculum standards and guidelines will include both nutrition and physical education.
- Nutrition education will be integrated into the health education curricula and core curriculum.
- Schools will link nutrition education activities with the coordinated school Wellness committee.
- Staff who provides nutrition education will have appropriate training.
- The Tea Area School District has a Wellness Committee and will conduct nutrition education activities and promotions that involve parents, students, and the community.

Physical Activity Goals

The primary goal for a school's physical activity component is to provide opportunities for every student to develop the knowledge and skills for specific physical activities, maintain physical fitness, regularly participate in physical activity, and understand the short- and long-term benefits of a physically active and healthful lifestyle.

- Students will be given opportunities for physical activity during the school day through K-5 daily recess periods with a minimum of 20 minutes a day, physical education (PE) classes, walking programs, and the integration of physical activity into the academic curriculum in alignment with the District Essential Guides.

- Students will be given opportunities for physical activity through a range of after-school programs including interscholastic athletics.
- Schools will work with the community to create an environment that is safe and supportive of students' physically active commute to and from school.
- Opportunities to access school facilities and equipment for physical activity will be made available on a regular basis.

Nutrition Standards for Foods Available on School Campus During the School Day

Students' lifelong eating habits are greatly influenced by the types of foods and beverages available to them. The Tea Area School District will ensure that reimbursable school meals meet the program requirements and nutrition standards set forth under state and federal guidelines while working towards providing meals appealing to the student population of each building. The District will also work to establish standards to address foods and beverages sold or served to students, including those available outside of the school meal programs.

- Efforts will be made to promote and provide healthy food choices for foods and beverages sold in vending machines, snack bars, school stores, and concession stands on the school campus. All competitive foods and beverages for sale to students during the school day (outside of the reimbursable school meals programs), including a la carte, vending, school stores, snack carts and fundraising will meet Smart Snacks in School nutrition standards as set forth by the USDA.
- Efforts will be made to offer a variety of foods and beverages sold as part of school-sponsored fundraising activities.

School-Based Activities Designed to Promote Student Wellness

The Tea Area School District will work to promote a school environment that provides consistent wellness messages and is conducive to healthy eating and being physically active.

- The school will provide a clean, safe, enjoyable meal environment for students.
- The school will allow water in classroom when and where appropriate.
- The school will provide adequate time for students to enjoy eating healthy foods with friends, scheduled as near the middle of the school day as possible.
- The school will provide enough space and serving areas to ensure students access to school meals with a minimum of wait time.
- The school will encourage all foods and beverages served to students during the regular and extended school day for birthday parties, holiday parties and school-wide celebrations meet the Smart Snacks in School nutrition standards.
- The school will have a wellness committee which meets regularly throughout the school year. Members include community representatives, building representatives, classified personnel, school nutrition director, and administrative representatives.
- The school will encourage alternatives to denial of student participation in recess or other physical activity as a form of discipline, or cancellation of recess or other physical activity time for instructional make-up time.
- The school will follow Smart Snack guidelines for fundraising efforts that are supportive of healthy eating.

- The school will provide on-going professional training and development for foodservice staff and teachers in the areas of nutrition and physical education.
 - The school will provide student access to physical activity facilities outside school hours.
 - The administration and school health committee will develop strategies for parents, teachers, school administrators, students, foodservice professionals, and community members to serve as role models in practicing healthy eating and being physically active, both in school and at home.
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Original Adopted Date: July 2003
Reviewed: January 2018
Revised: February 2018

TOBACCO-FREE SCHOOLS

The District recognizes its duty to promote the health and safety of students, staff and citizens on district property and during school-sponsored activities. In accordance with this responsibility, it is the intent of the School Board to establish a tobacco-free school environment that demonstrates a commitment to helping students resist tobacco use and that emphasizes the importance of adult role modeling.

The use, possession, or promotion of tobacco on school property by students, employees, vendors, visitors and invitees is prohibited. Students and employees are also prohibited from using or promoting tobacco at school-sponsored activities off school property. Students participating in school activities are also subject to such rules as may exist pursuant to an applicable activity code of conduct.

For the purposes of this policy:

1. "Tobacco" means any substance or item, in any form, containing tobacco and electronic nicotine delivery devices (e-cigarettes), which may not contain tobacco;
2. "School property" means all district-owned, rented or leased buildings, grounds and vehicles;
3. "School-sponsored activity" means any planned, organized, endorsed, or supervised activity involving district students or staff that occurs either before, during or after regular school hours;
4. "Promotion" means the use or display of tobacco-related clothing, bags, lighters, or other material that is designed to encourage the acceptance or use of tobacco.

The Board hereby directs the Superintendent to formulate the necessary rules and procedures to ensure the enforcement and implementation of this policy

District employees in violation of this policy will be subject to disciplinary action. Visitors, vendors and invitees in violation of this policy will be subject to appropriate consequences, which may include being directed to leave school property.

The superintendent may provide reasonable public notification of the district's policy within student and staff handbooks.

State References

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|---------------|---|
| SDCL 13-8-39 | Management of school by board – general powers |
| SDCL 34-46-14 | Smoking in public or place of employment prohibited |

Original Adopted Date: July 2003
Reviewed: January 2018
Revised: February 2018

CONTESTED HEARINGS

The Board may be required to assume a judicial role to ensure adherence to district policy. All contested matters will be heard in a fair and impartial manner, and the Board will resolve all disputes. All contested hearings shall adhere to the procedures outlined in this policy.

HEARING

- Hearings involving personnel and students are closed to the public.
- Requests for hearings to be conducted in open session will be considered by the Board.
- A verbatim record of the hearing will be made.
- Closed hearing records will be sealed pending a determination of the board.

CONDUCT OF THE HEARING

- The Board shall appoint a school board member or a person who is not an employee of the school district as the hearing officer.
- Each party may be represented by an attorney.
- Each party may make an opening statement.
- The complainant or petitioner shall present its case first.

WITNESSES

- All witnesses must take an oath or affirmation of truth.
- Witnesses may be present only when testifying.
- Each party may present, examine and cross-examine witnesses.
- The hearing officer may ask questions of witnesses and may allow other school board members to question witnesses.

EVIDENCE

- Each party may introduce evidence.
- All relevant evidence must be admitted.
- Unproductive or repetitious evidence may be limited by the hearing officer.
- Each party may raise objections. The basis for the objection must be stated.
- Each party may make a closing statement.

DELIBERATION

- After the hearing, the school board shall continue to meet in executive session for deliberation.
- No one other than the hearing officer may meet with the school board during deliberation.
- The school board may seek advice during deliberation from its legal counsel.
- Consultation with any other person during deliberation may occur only if representatives of the parties are present.

DECISION

- The decision of the Board must be based solely on the evidence presented at the hearing and must be effected by a motion made in open session.
- For closed hearings the motion must omit the names of the parties.
- The Board shall notify the parties in writing of its decision.

Original Adopted Date: July 2003
Reviewed: January 2018
Revised: February 2018

CONFLICT DISCLOSURE AND AUTHORIZATION

SDCL 3-23-6 states:

“[n]o board member, fiscal agent, officer, or executive of a local service agency, school district, cooperative education service unit, education service agency, nonprofit education service agency, or jointly governed education service entity that receives money from or through the state may have an interest in a contract nor receive a direct benefit from a contract that the local service agency, school district, cooperative education service unit, education service agency, nonprofit education service agency, or jointly governed education service entity is a party to the contract except as provided in § 3-23-8.”

This policy prohibits school board members, the school district fiscal agent (business manager), school officers and executives (school administrators) from having an interest in a contract, or receiving a direct benefit from a contract, if the school district is a party to that contract or has a separate contract which is related to the contract of the school board member, business manager or school administrator, unless the school board grants a waiver. Disclosure requirements apply to public contracts for labor or services to be rendered, the purchase of commodities, materials, supplies, or equipment of any kind, and any kind of contract related to facilities.

Disclosure is required by the school board member, the business manager or a school administrator in each of the following situations:

1. when the school board member, business manager or school administrator has an interest in a contract or receives a direct benefit from a contract.
2. if the spouse of the school board member, business manager or school administrator has an interest in a contract or receives a direct benefit from a contract.
3. if another person with whom the school board member, business manager or school administrator lives and commingles assets has an interest in a contract or receives a direct benefit from a contract.

A school board member, business manager or school administrator derives a direct benefit from a contract, or their spouse or other person with whom assets are commingled derives a direct benefit from a contract:

1. if the person has more than a five percent ownership or other interest in an entity that is a party to the contract;
2. if the person derives income, compensation, or commission directly from the contract or from the entity that is a party to the contract;
3. if the person acquires property under the contract; or
4. if the person serves on the board of directors of an entity that derives income directly from the contract or acquires property under the contract.

A person does not derive a direct benefit from a contract based solely on the value associated with the person's investments or holdings, or the investments or holdings of other persons the state officer or employee lives with and commingles assets.

If in doubt whether an actual conflict exists, this policy also requires disclosure of possible or potential conflicts.

If other specific conflict of interest laws or administrative regulations relating to school board members, school administrators and the school business manager apply in addition to SDCL Ch. 3-23 and this policy, the more restrictive conflict of interest law shall apply.

Any school board member, school administrator or school business manager who knowingly violates SDCL Ch. 3-23 commits a criminal offense (Class 1 misdemeanor). Any school board member who knowingly violates the provisions of this policy is subject to being removed as a school board member. Any school administrator or business manager who knowingly violates the provisions of this policy is subject to his or her employment relationship with the school district being terminated. Unless the school board has granted a waiver, the contract in which the school board member, school administrator or school business manager has an interest or receives a direct benefit is voidable by the school board and any benefit received by the school board member, school administrator or school business manager is subject to forfeiture.

A waiver may be granted by the school board to authorize a school board member, school administrator or school business manager to receive a direct benefit from the school district's contract with a person or entity (public, private, for-profit, non-profit) if the following conditions are met:

1. the school board member, school administrator or school business manager provides a full written disclosure to the school board;
2. the school board reviews the essential terms of the contract or transaction and the school board member's, school administrator's or school business manager's role in the contract or transaction;
3. the school board determines that the transaction and terms of the contract are fair and reasonable and not contrary to the public interest; and
4. the authorization of the school board is in writing and filed with the Auditor-General.

The public records laws (SDCL Ch. 1-27) apply to all requests for a waiver.

APPLYING FOR A WAIVER:

1. If the potential for a conflict exists, the school board member, school administrator or school business manager having the potential conflict of interest must submit the Request for School Board Waiver form, Exhibit AH-E(1).
2. The request should be submitted to the school board before entering into a conflicted contract or transaction.
3. Disclosures and requests for a waiver should be submitted to the President/Chairperson of the School Board, the Superintendent or the Business Manager, at least 5 calendar days before the scheduled meeting in order to be included in the posted agenda and acted upon at the next scheduled meeting. Disclosures and requested received by the President/Chairperson of the School

Board, the Superintendent or the Business Manager less than 5 calendar days before the scheduled meeting may be deferred until the following school board meeting.

4. The person applying for the waiver must describe the relationship to the contract in question and why the applicant believes the contract may be subject to disclosure, including how person, his/her spouse or anyone with whom he/she lives and commingles assets might benefit from the contract. Examples of persons other than a spouse might include a girlfriend, boyfriend, roommate, or an adult child.
5. The person requesting the waiver identify and describe the essential terms of the contract:
 - a. all parties to the contract,
 - b. the person's role in the contract or transaction,
 - c. the purpose(s)/objective(s) of the contract,
 - d. the consideration or benefit conferred or agreed to be conferred upon each party,
 - e. the length of time of the contract,
 - f. any other relevant information.
6. The person requesting the waiver should briefly describe why he/she believes a waiver would not be contrary to the public interest (i.e., the contract was part of a competitive bidding process, there are other school district people involved in the decision-making process to enter into the contract, or the terms of the contract are consistent with other, similar contracts).
7. The School District Attorney may answer general questions about the applicability of SDCL Ch. 3-23 or about the other laws that address conflict of interest. However, the school district attorney represents the school district and the school board, and not school board members, school administrators, or the school business manager, in their individual capacities. School board members, school administrators, and the school business manager should contact a private attorney if they have questions as to how SDCL Ch. 3-23 and this policy apply to their individual interests and contracts.

BOARD ACTION ON A REQUEST FOR WAIVER:

1. School Boards will have a regular agenda item at the beginning of the school board meeting agenda when the school board will address disclosures and requests for a waiver.
2. Disclosures and requests for a waiver submitted to the President/Chairperson of the School Board, the Superintendent or the Business Manager, at least 5 calendar days before the scheduled meeting will be included in the posted agenda and acted upon at the next scheduled meeting.
3. Disclosures and requests received by the President/ Chairperson of the School Board, the Superintendent or the Business Manager less than 5 calendar days before the scheduled meeting may be deferred until the following school board meeting.
4. If possible, waiver requests will be acted upon at the meeting in which the request is brought forth. If the school board believes the request form information is incomplete, the school board must ask the person requesting the waiver for additional information. The Board will avoid using an incomplete request form as the basis for extending the time for review and decision on the waiver request; the school board may receive the needed information from the requesting party at the school board meeting when the waiver request is being addressed.

5. When considering a waiver request, the school board should be able to determine the requesting party's relationship to the contract, the requesting party's relationship to the outside contracting party, whether the contract terms are reasonable and in the public interest, and any other factors the school board believes will help establish the relevant facts and circumstances surrounding the contract(s) and the request for waiver.
 6. At the meeting when the waiver request will be considered by the board, the school board member, school administrator or school business manager submitting the waiver request must be present and prepared to answer questions from the school board about the request for a waiver.
 7. The request and the Board's determination must be included in the minutes of the meeting.
 8. If the authorization is granted, a written authorization [Exhibit AH-E(2)] shall be prepared following the meeting and signed by the President/Chair of the School Board or other authorized School Board Member, and filed with the Auditor General.
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State References

SDCL 1-27	Public records and files
SDCL 3-23-6	Prohibition against contract conflict of interest
SDCL 3-23-7	Circumstances resulting in contract conflict of interest
SDCL 3-23-8	Exceptions to contract conflict of interest
SDCL 3-23-9	Consequences for violation of contract conflict of interest law

Original Adopted Date: July 2003
Reviewed: January 2018
Revised: February 2018

REQUEST FOR SCHOOL BOARD WAIVER

Date: _____

Name of the school board member, school administrator or school business manager requesting the waiver:

Brief explanation of the potential conflict of interest:

Brief explanation of the essential terms of the contract(s) or transaction(s) from which a potential conflict of interest may arise, including:

- (1) all parties to the contract
- (2) the person's role in the contract or transaction
- (3) the purpose(s)/objective(s) of the contract
- (4) the consideration or benefit conferred or agreed to be conferred upon each party
- (5) the length of time of the contract
- (6) any other relevant information

Brief explanation of how or why the transaction or the terms of the contract are fair, reasonable, and not contrary to the public interest such that a waiver should be granted.

Signature of Person Requesting Waiver: _____

THIS IS A PUBLIC DOCUMENT

WAIVER AUTHORIZATION PURSUANT TO SDCL 3-23-3

A written request for waiver of conflict, dated _____, was received from _____.

The request was acted upon by the members of the Tea Area School District Board of Education during a meeting held on _____.

_____ The request for waiver was denied because the terms of the contract were not considered fair and reasonable, or contrary to the public interest.

_____ The request for waiver was authorized because the terms of the contract are fair and reasonable, and not contrary to the public interest such that a waiver should be granted.

_____ The request for waiver was authorized because the terms of the contract are fair and reasonable, and not contrary to the public interest such that a waiver should be granted, subject to the following conditions:

Signature of School Board President: _____

Printed Name: _____

Date: _____

Date mailed to Auditor General: _____