

## Foundations and Basic Commitments

NEPN Code	Title of Policy	Next Scheduled Review
A	<a href="#">Foundations and Basic Commitments</a>	FY2028
AA	<a href="#">School District Legal Status</a>	FY2028
ABA	<a href="#">Community and Parent Involvement in Decision Making</a>	FY2028
ABAA	<a href="#">Parent Involvement in Title I</a>	FY2028
ABAA-R(1)	<a href="#">Parental Involvement in Title I - Guidelines (Regulation)</a>	FY2028
ABAAA	<a href="#">Transition Planning and Coordination of Services</a>	FY2028
ABAB	<a href="#">Parent Involvement</a>	FY2028
ABAC	<a href="#">Relations with Parents</a>	FY2028
AC	<a href="#">Nondiscrimination in Federal Programs</a>	FY2028
AC-E(1)	<a href="#">Nondiscrimination in Federal Programs - Complaint Report Form</a>	FY2028
AC-E(2)	<a href="#">Nondiscrimination in Federal Programs – Complaint Appeal to the Superintendent</a>	FY2028
AC-E(3)	<a href="#">Nondiscrimination in Federal Programs – Complaint Appeal to the School Board</a>	FY2028
ACAA	<a href="#">Sexual Harassment</a>	FY2028
ACAA-R(1)	<a href="#">Sexual Harassment - Regulation</a>	FY2028
ACAA-E(1)	<a href="#">Sexual Harassment – Complaint Report Form</a>	FY2028
ACAA-E(2)	<a href="#">Sexual Harassment – Complaint Appeal to the Superintendent</a>	FY2028
ACAA-E(3)	<a href="#">Sexual Harassment – Complaint Appeal to the School Board</a>	FY2028
ACAB	<a href="#">Prohibition Against Aiding or Abetting Sexual Abuse</a>	FY2028
ACB	<a href="#">Nondiscrimination on the Basis of Handicap/Disability</a>	FY2028
AD	<a href="#">Educational Philosophy</a>	FY2028
AE	<a href="#">Wellness</a>	FY2028

AEA	<a href="#">Tobacco-Free Schools</a>	FY2028
AGA	<a href="#">Contested Hearings</a>	FY2028
AH	<a href="#">Conflict of Interest Disclosure and Authorization</a>	FY2028
AH-E(1)	<a href="#">Conflict of Interest Disclosure and Authorization – Conflict of Interest Disclosure</a>	FY2028
AH-E(2)	<a href="#">Conflict of Interest Disclosure and Authorization – School Board Action on Conflict of Interest Disclosure of a Direct Benefit</a>	FY2028

All Staff	All Staff need to be made aware of policy each year
Approve Each year	Board should approve all policies in this color each year
Green	Students and parents need to be made aware of policy each year

<b>Arlington School District 38-1</b>	<b>NEPN Code: A</b>
<b>School Board Policy Reference Manual</b>	

## **FOUNDATIONS AND BASIC COMMITMENTS**

Section A contains policies, regulations, and exhibits related to the district’s legal role in providing public education and the basic principles underlying school board governance.

Legal References:

Adopted: FY2023

Last Review: FY2023

Next Review Scheduled For: FY2028

<b>Arlington School District 38-1</b>	<b>NEPN Code: AA</b>
<b>School Board Policy Reference Manual</b>	

**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 Arlington School District, No. 38-1 of Kingsbury County, South Dakota. The district was established around 1880.

**Established by law**

Legal References: US Constitution, Tenth Amendment; SD Constitution Article 22; SD Constitution Article 26 §18; SD Constitution Article 8 §1; SDCL 13-5-1; SDCL 13-5-2; SDCL 13-5-14; SDCL 13-5-15; SDCL 13-5-16; SDCL 13-5-17; SDCL 13-5-17.1; SDCL 13-5-29; SDCL 13-6

Cross References: BB – School Board Legal Status

Adopted: FY2011

Last Review: FY2023

Next Review Scheduled For: FY2028

<b>Arlington School District 38-1</b>	<b>NEPN Code: ABA</b>
<b>School Board Policy Reference Manual</b>	

## **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. The Superintendent will report to the Board on its membership, function, progress and final report.

Legal References:

Cross References: BCF – Advisory Committees to the Board; KMA – Relations with Parents Organizations

Adopted: FY2011

Last Review: FY2023

Next Review Scheduled For: FY2028

<b>Arlington School District 38-1</b>	<b>NEPN Code: ABAA</b>
<b>School Board Policy Reference Manual</b>	

## **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 the community, and to establish sound public relations, is through temporary parents' 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. The Superintendent will report to the Board on its membership, function, progress and final report.

Legal References: CFR Title 34 Part 75; SD Constitution Article 22

Cross References: BCF - Advisory Committees to the Board

Adopted: FY2011

Last Review: FY2023

Next Review Scheduled For: FY2028

<b>Arlington School District 38-1</b>	<b>NEPN Code: ABAA-R(1)</b>
<b>School Board Policy Reference Manual</b>	

## **PARENT INVOLVEMENT IN TITLE I - Guidelines (Regulation)**

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.

### **GUIDELINES**

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 to 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 sent in Wednesday folders or 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 are tabulated using a yearend parent survey;
  - 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 any time during the school year. Parents will be given an opportunity to be involved in the policy development process.

Legal References: CFR Title 34 Part 75; SD Constitution Article 22

Cross References: BCF - Advisory Committees to the Board

Adopted: FY2011

Last Review: FY2023

Next Review Scheduled For: FY2028



<b>Arlington School District 38-1</b>	<b>NEPN Code: ABAAA</b>
<b>School Board Policy Reference Manual</b>	

**Arlington School District Coordination and Transition Plan Components:**

**Program Development**

The Coordination and Transition plan was designed to provide parents with information on programs and services available to help parents prepare their child for Preschool and Kindergarten. This plan was developed in conjunction with the school district, local head start agency, preschool staff, local day care providers, and a Northeast Educational Services Cooperative representative. Communication takes place between all stakeholders. This communication involves phone calls, meetings, letters, and press releases for screening dates and times. Records are shared between the Interlake’s Head Start agency and the school district through written parental permission. A fall survey will be completed by parents of students who just entered Kindergarten to evaluate the transition services. The information from this survey will be used to make any revisions to the transition plan. All agencies the district is coordinating with are asked to share professional development opportunities as they arise.

**Coordination and Communication**

Agencies and programs Arlington School District is coordinating with:

The Coordination/Transition Plan Committee Members are:

- PK-12 Principal
- Special Education Director
- Preschool Teacher & Title Coordinator
- Elem SPED
- Kindergarten
- Head Start
- Daycare Provider
- Parent
- NESC Representative

**Transition Process**

The purpose of the Arlington School District's transition process is to prepare four year-old children and their families for kindergarten. A Preschool and Kindergarten screening day is held. Parents bring their children to be screened, and discuss development and readiness with the preschool and kindergarten staff members. Immunization records are checked at this time. The kindergarten teacher discusses development, expectations, daily schedules, and activities to help prepare the children for school. During the school year, preschool students tour the kindergarten room. An Open House is held for preschool and kindergarten students. Class lists, bus routes, insurance options, students handbooks, an explanation of payments, opportunities to purchase

school lunches, and medical forms are completed on Open House night. Parents complete the appropriate forms and provide their signature to transfer records. All student records between agencies are transferred with parent permission. For children with special needs, a meeting is held with the parents, child, and district staff to ensure the IEP is implemented as written when the child enters school.

### **Professional Development**

With the participation of school staff, Title program staff, paraprofessionals, and other early childhood development program staff will participate in joint training. Joint training will take place at in-services.

The Arlington Title Program will hold family literacy nights to encourage parent involvement. Topics covered will deliver training and educate parents across the community.

### **Evaluation**

The Arlington School District Coordination /Transition plan will be annually evaluated and revised as necessary in the spring. All committee members will be involved in the evaluation process. Every year parents are surveyed about the effectiveness of the early childhood programs in the district. This information is read and used to evaluate and update the current program. Also, information from the surveys is used to begin open dialogue at the spring Transitional Meeting with the committee to answer any questions or concerns.

Adopted: FY2011

Updated: FY2020

Last Reviewed: FY2023

Next Review Scheduled For: FY2028

<b>Arlington School District 38-1</b>	<b>NEPN Code: ABAB</b>
<b>School Board Policy Reference Manual</b>	

## **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.

Legal Reference: SD Constitution Article 22

Adopted: FY2011

Last Reviewed: FY2023

Next Review Scheduled For: FY2028

<b>Arlington School District 38-1</b>	<b>NEPN Code: ABAC</b>
<b>School Board Policy Reference Manual</b>	

## **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;
5. Cooperating with the school in attending conferences set up for the exchange of information on the child's progress in school;
6. Participating in in-school activities and special functions.

Legal References: SD Constitution Article 22

Adopted: FY2011

Last Review: FY2023

Next Review Scheduled For: FY2028

<b>Arlington School District 38-1</b>	<b>NEPN Code: AC</b>
<b>School Board Policy Reference Manual</b>	

## **NONDISCRIMINATION 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:

Arlington School District 38-1  
306 South Main, Arlington, SD 57212  
Phone #: (605) 983-5598.

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](mailto: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, and 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 Employees 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 Employees 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 Principals 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 Principals written decision pursuant to Step 2. If the Principal does not render a written decision within the required time frame (14 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 Superintendents 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 Principals 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) 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 others 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.

Legal References: CFR Title 34 Part 104; CFR Title 34 Part 300; CFR Title 45 Part 81; CFR Title 45 Part 86; USC Title 20 §1681-1688; USC Title 20 §6301 et.seq; USC Title 20 Chapter 33; USC Title 29 Chapter 14; USC Title 29 Chapter 16; USC Title 42 §11431; USC Title 42 §2000; USC Title 42 §6101-6103; SD Constitution Article 6; SDCL 13-28-14; SDCL 13-28-5; SDCL 13-28-6; SDCL 13-37; SDCL 20-13

Cross References: ACB – Nondiscrimination on the Basis of Handicap/Disability; EH – Service Animals in School; FEFA – Contractor's Fair Employment Clause; GBA – Equal Opportunity Employment; JECG – Education of Students in Foster Care

Legal References:

Adopted: FY2011

Last Review: FY2023

Next Review Scheduled For: FY2028

<b>Arlington School District 38-1</b>	<b>NEPN Code: AC-E(1)</b>
<b>School Board Policy Reference Manual</b>	

**NONDISCRIMINATION IN FEDERAL PROGRAMS  
COMPLAINT REPORT FORM**

Date Form Completed: \_\_\_\_\_

Form Completed by: \_\_\_\_\_

Person Filing the Complaint (Complainant): \_\_\_\_\_

Address/Phone # of Complainant: \_\_\_\_\_

Employee Involved: \_\_\_\_\_

Nature of Complaint: The person making the complaint shall with specificity identify the basis of the complaint (i.e., what, when, where, witnesses, and any other pertinent information.

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

\_\_\_\_\_ (use additional sheets if necessary).

Was a meeting held between the person having the complaint and the employee?  
Yes \_\_\_\_\_ No \_\_\_\_\_

If a meeting was held, when was it held, what happened at the meeting and what was the outcome of the meeting: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_.

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 \_\_\_\_\_

Adopted: 3/30/2015  
Revised:  
Reviewed:

Legal References: CFR Title 34 Part 104; CFR Title 34 Part 300; CFR Title 45 Part 81; CFR Title 45 Part 86; USC Title 20 §1681-1688; USC Title 20 §6301 et.seq; USC Title 20 Chapter 33; USC Title 29 Chapter 14; USC Title 29 Chapter 16; USC Title 42 §11431; USC Title 42 §2000; USC Title 42 §6101-6103; SD Constitution Article 6; SDCL 13-28-14; SDCL 13-28-5; SDCL 13-28-6; SDCL 13-37; SDCL 20-13

Cross References: ACB – Nondiscrimination on the Basis of Handicap/Disability; EH – Service Animals in School; FEFA – Contractor’s Fair Employment Clause; GBA – Equal Opportunity Employment; JECG – Education of Students in Foster Care

Adopted: FY2023

Last Review: FY2023

Next Review Scheduled For: FY2028



Adopted: FY2023

Last Review: FY2023

Next Review Scheduled For: FY2028

<b>Arlington School District 38-1</b>	<b>NEPN Code: AC-E(3)</b>
<b>School Board Policy Reference Manual</b>	

**NONDISCRIMINATION 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

\_\_\_\_\_  
Board President/Chairperson – Business Manager:

Adopted: 3/30/2015 Revised: Reviewed:
---

Legal References: CFR Title 34 Part 104; CFR Title 34 Part 300; CFR Title 45 Part 81; CFR Title 45 Part 86; USC Title 20 §1681-1688; USC Title 20 §6301 et.seq; USC Title 20 Chapter 33; USC Title 29 Chapter 14; USC Title 29 Chapter 16; USC Title 42 §11431; USC Title 42 §2000; USC Title 42 §6101-6103; SD Constitution Article 6; SDCL 13-28-14; SDCL 13-28-5; SDCL 13-28-6; SDCL 13-37; SDCL 20-13



Cross References: ACB – Nondiscrimination on the Basis of Handicap/Disability; EH – Service Animals in School; FEFA – Contractor’s Fair Employment Clause; GBA – Equal Opportunity Employment; JECG – Education of Students in Foster Care

Adopted: FY2023

Last Review: FY2023

Next Review Scheduled For: FY2028

<b>Arlington School District 38-1</b>	<b>NEPN Code: ACAA</b>
<b>School Board Policy Reference Manual</b>	

## **SEXUAL HARASSMENT**

### **I. Policy Statement**

The District does not discriminate on the basis of sex in any education program or activity that it operates, including admission and employment. The District is required by Title IX of the Education Amendments of 1972 and the regulations promulgated through the U.S. Department of Education not to discriminate in such a manner. Inquiries about the application of Title IX to the District may be referred to the District's Title IX Coordinator, to the Assistant Secretary for Civil Rights of the Department of Education, or both. *(34 CFR § 106(b)(1))*

The District is committed to a school environment which is free from sexual harassment and conducive to all students' educational opportunities. Sexual harassment can inhibit a student's educational opportunities and an employee's work. Sexual harassment of students attending school in the District or students from other schools who are at a District activity, and sexual 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 sexual 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.

Federal law (34 CFR § 106.30) defines "sexual harassment" as conduct on the basis of sex that satisfies one or more of the following: *(34 CFR § 106.30)*

1. An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity;
- or
3. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

Any person may report sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX Coordinator. *(34 CFR § 106.8(a))*

Any student who believes that he or she has been or is being subjected to sexual harassment or has reason to suspect another person has been or is being subjected to sexual harassment may also report it to a teacher,

guidance counselor, or school administrator. The report may be made verbally or in writing.

The District’s response shall treat complainants and respondents equitably by offering supportive measures to a complainant, and by following a grievance process that complies with Title IX requirements before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent. (34 CFR § 106.44(a))

## II. Designation of Title IX Coordinator

The Board has designated the following District employee to coordinate its efforts to comply with its responsibilities as set forth in 34 CFR Part 106, who shall be referred to as the “Title IX Coordinator.” (34 CFR § 106.8(a))

Name or Title: \_\_\_\_\_  
Office Address: \_\_\_\_\_  
Email Address: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_

The District shall notify applicants for employment, students, parents or legal guardians of elementary and secondary school students, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the District, of the name or title, office address, electronic mail address, and telephone number of the employee or employees designated as the Title IX Coordinator. (34 CFR § 106.8(a))

The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures. (34 CFR § 106.30(a))

## III. Dissemination of Policy

The District shall notify persons entitled to the notification under Section I. above that the District does not discriminate on the basis of sex in the education program or activity that it operates, and that it is required by Title IX and this policy not to discriminate in such a manner. Such notification must state that the requirement not to discriminate in the education program or activity extends to admission and employment, and that inquiries about the application of Title IX to the District may be referred to the District’s Title IX Coordinator, to the U.S. Assistant Secretary of Education, or both.

The District shall prominently display the contact information required to be listed for the Title IX Coordinator on its website, and in each handbook or catalog that it makes available to persons entitled to a notification pursuant to Section I. above. (34 CFR § 106.8(b))

## IV. Adoption of Grievance Procedures

The District has adopted and published grievance procedures (ACAA-R(1), Sexual Harassment – Regulations) that provide for the prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited by Title IX and this policy. The District shall provide to persons entitled to a notification under Section I above notice of the District’s grievance procedures and grievance process, including how to report or file a complaint of sex discrimination, how to report or file a formal complaint of sexual harassment, and how the District will respond. (34 CFR § 106.8(c))

## V. Definitions (34 CFR § 106.30(a), except when otherwise indicated)

- a. “Actual knowledge” means notice of sexual harassment or allegations of sexual harassment to the District’s Title IX Coordinator or any official of the District who has authority to institute corrective measures on behalf of the District, or to any employee of an elementary and secondary school. Imputation of knowledge based solely

on vicarious liability (when a person has a particular legal relationship to the person who acted negligently) or constructive notice (deeming notice of something to a person having been given, even though actual notice did not exist) is insufficient to constitute actual knowledge. This standard is not met when the only official of the recipient with actual knowledge is the respondent. The mere ability or obligation to report sexual harassment or to inform a student about how to report sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the District.

- b. "Complainant" means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.
- c. "Dating violence" means violence committed by a person:
  - 1. who is or has been in a social relationship of a romantic or intimate nature with the victim; and
  - 2. where the existence of such a relationship shall be determined based on a consideration of the following factors:
    - i. the length of the relationship.
    - ii. the type of relationship.
    - iii. the frequency of interaction between the persons involved in the relationship. *(34 U.S.C. 12291(a)(10))*
- d. "Decision-maker" means the school administrator who has primary responsibility and authority related to students, staff and attendance center where the alleged sexual harassment occurred, unless otherwise designated by the Board, and who has the authority to make a determination on the complaint as to responsibility of the respondent. *(ASBSD sample definition)*
- e. "Domestic violence" includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction. *(34 U.S.C. 12291(a)(8))*
- f. "Education program or activity" includes locations, events, or circumstances over which the District exercised substantial control over both the respondent and the context in which the sexual harassment occurs. *(34 CFR § 106.44(a))*
- g. "Formal complaint" means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the District investigate the allegation of sexual harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the District. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information required to be listed for the Title IX Coordinator, and by any additional method designated by the District.
- h. "Document filed by a complainant" means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the District) that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint. Should the Title IX Coordinator sign the formal complaint, the Title IX Coordinator is not a complainant or otherwise a party, and the Title IX Coordinator must comply with the Title IX requirements.
- i. "Notice" includes, but is not limited to, a report of sexual harassment to the Title IX Coordinator.
- j. "Respondent" means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

- k. "Sexual assault" means any nonconsensual sexual act proscribed by Federal, Tribal, or State law, including when the victim lacks capacity to consent. (20 U.S.C. 1092(f)(6)(A)(v))
- l. "Stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
  - 1. fear for his or her safety or the safety of others; or
  - 2. suffer substantial emotional distress. (34 U.S.C. 12291(a)(30))
- m. "Supportive measures" means nondisciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the District's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the District's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, escorting the complainant while on District property or while a District off-campus activity, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

## **VI. District's Response to Sexual Harassment (34 CFR § 106.44)**

- A. General response to sexual harassment. Regardless of whether or not a formal complaint is filed, should the District have actual knowledge of sexual harassment in a District educational program or activity against another person in the United States, the District shall respond promptly in a manner that is not deliberately indifferent (i.e., if the District's response to sexual harassment is clearly unreasonable in light of the known circumstances).

The Title IX Coordinator shall promptly contact the complainant to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.

- B. Response to a formal complaint. In response to a formal complaint, the District shall follow the grievance process as set forth in ACAA-R(1), Sexual Harassment – Regulations.
- C. Time frames. The timeframes set forth in the regulations shall be considered as a maximum length of time within which the related step is to be completed, however, the time frames may be extended for good cause upon written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause includes, but is not limited to, utilization of the informal resolution process, availability of an investigator if not a school employee, complexity of the investigation, absence of a party, a party's advisor, a witness, or decision-maker (including a person necessary for addressing an appeal), concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities.
- D. Emergency removal. Nothing in Title IX regulations or this policy prohibits the District from removing a respondent from the District's education program or activity on an emergency basis, provided that the District undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal, however, nothing in Title IX regulations or this policy may be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act. Additionally, nothing in the Title IX regulations or this policy prohibits the District from placing an employee respondent on administrative leave during the pendency of a grievance process, however, nothing in Title IX regulations or this policy may be construed to modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act.

## **VII. Informal Resolution (34 CFR § 106.45(b)(9))**

- A. The District may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with this policy.
- B. The District may not require the parties to participate in an informal resolution process under this policy and may not offer an informal resolution process unless a formal complaint is filed.
- C. At any time prior to reaching a determination regarding responsibility the District may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the District:
  - 1. provides to the parties a written notice disclosing the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
  - 2. obtains the parties' voluntary, written consent to the informal resolution process; and
  - 3. does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

## **VIII. District's Grievance Process for Formal Complaints of Sexual Harassment (34 CFR § 106.45(b))**

- A. For the purpose of addressing formal complaints of sexual harassment, the District's grievance procedure as set forth in ACAA-R(1), Sexual Harassment – Regulations, shall be followed. There must be compliance with the requirements of this section, and any provisions, rules, or practices other than those required by this section that the District adopts as part of its grievance process for handling formal complaints of sexual harassment must apply equally to both parties.
- B. Upon receipt of a formal complaint, the Title IX Coordinator shall provide the following written notice to the parties who are known (34 CFR § 106.45(b)(2))
  - 1. Notice of the District's grievance process, including any informal resolution process.
  - 2. Notice of the allegations of sexual harassment potentially constituting sexual harassment as defined in this policy, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known. The written notice must include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process. The written notice shall inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence. The written notice shall inform the parties of any provision in the District's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

- C. The District shall treat complainants and respondents equitably by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent. Remedies may be disciplinary in nature. Such remedies may include the same individualized services identified as supportive measures. Remedies must be designed to restore or preserve equal access to the District's education program or activity. *(34 CFR § 106.45(b)(1)(i))*
- D. The District shall follow the grievance process before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent. *(34 CFR § 106.44(a))*
- E. Investigation of a formal complaint. When investigating a formal complaint and throughout the grievance process, the District:
1. shall have the burden of proof and the burden of gathering evidence sufficient to reach a determination, and the parties shall not have either burden; *(34 CFR § 106.45(b)(5)(i))*
  2. cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the District obtains that party's voluntary, written consent to do so for a grievance process under this section. If a party is not an "eligible student," (i.e., student who has reached 18 years of age), the District must obtain the voluntary, written consent of a "parent," (i.e., natural parent, guardian, or an individual acting as a parent in the absence of a parent or a guardian; *(34 CFR § 106.45(b)(5)(i))*)
  3. shall provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence; *(34 CFR § 106.45(b)(5)(ii))*
  4. shall not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence; provided, however, nothing in this provision prohibits the District from taking disciplinary action due to a party retaliating against any person due to that person having made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy. *(34 CFR § 106.45(b)(5)(iii))*
  5. shall provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding; however, the District may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties. *(34 CFR § 106.45(b)(5)(iv))*
- F. There shall be an objective evaluation of all relevant evidence, and credibility determinations may not be based on a person's status as a complainant, respondent, or witness. *(34 CFR § 106.45(b)(1)(ii))*
- G. No individual designated by a recipient as a Title IX Coordinator, investigator, decision-maker, or any person designated by the District to facilitate an informal resolution process, may have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. *(34 CFR § 106.45(b)(1)(iii))*
- H. The Title IX Coordinator, investigators, decision-makers, and any person who facilitates an informal resolution process, shall receive training on the definition of sexual harassment, the scope of the District's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. *(34 CFR § 106.45(b)(1)(iii))*
1. The decision-makers shall receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant.

2. The investigators shall receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.
  3. No materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, may rely on sex stereotypes, and training materials must promote impartial investigations and adjudications of formal complaints of sexual harassment.
- I. Until a determination regarding responsibility is made at the conclusion of the grievance process, the respondent is presumed to not be responsible for the alleged conduct. *(34 CFR § 106.45(b)(1)(iv); 34 CFR § 106.45(b)(2)(i)(B))*
- J. The District's grievance procedure as set forth in ACAA-R(1), Sexual Harassment – Regulations, shall:
1. including reasonably prompt time frames for filing and resolving appeals and informal resolution processes if District offers informal resolution processes; *(34 CFR § 106.45(b)(1)(vi))*
  2. include a process that allows for the temporary delay of the grievance process or the limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities; *(34 CFR § 106.45(b)(1)(v))*
  3. include the range of possible disciplinary sanctions and remedies or list the possible disciplinary sanctions and remedies that the District may implement following any determination of responsibility; *(34 CFR § 106.45(b)(1)(vi))*
  4. state that for all formal complaints of sexual harassment filed against students and employees, the standard of evidence to be used to determine responsibility is the preponderance of the evidence standard. *(34 CFR § 106.45(b)(1)(vii))*
  5. include the procedures and permissible bases for the complainant and respondent to appeal; *(34 CFR § 106.45(b)(1)(viii))*
  6. describe the range of supportive measures available to complainants and respondents; *(34 CFR § 1045(b)(1)(ix))* and
  7. not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege. *(34 CFR § 106.45(b)(1)(x))*
- K. If, in the course of an investigation, the District decides to investigate allegations about the complainant or respondent that are not included in the notice provided pursuant to provision B in this section, the District shall provide notice of the additional allegations to the parties whose identities are known. *(34 CFR § 106.45(b)(2)(ii))*
- L. Any party whose participation is invited or expected, shall be given written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate. *(34 CFR § 106.45(b)(5)(v))*
- M. All parties shall have equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the recipient does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. *(34 CFR § 106.45(b)(5)(vi))*
- N. Prior to completion of the investigative report, the District must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least 10 calendar days to submit a written response, which the investigator will consider prior to completion of the investigative report. *(34 CFR § 106.45(b)(5)(vii))*
- O. The investigator shall create an investigative report that fairly summarizes relevant evidence and, at least 10 calendar days prior to a determination by a decision-maker regarding responsibility, send to each party and the



party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response. (34 CFR § 106.45(b)(5)(vii))

- P. No adversarial hearing shall be held unless the determination of the Superintendent is appealed to the Board, or unless the Superintendent recommends the long term suspension or expulsion of a student, or the suspension without pay or termination of employment of an employee. (34 CFR § 106.45(b)(6)(ii))
- Q. The Superintendent may make a recommendation to the Board that a student determined to have sexually harassed another person be suspended long-term or expelled (ARSD 24:07:01:01). The Superintendent may also make a recommendation to the Board that an employee determined to having sexually harassed another person be suspended without pay or the person's employment with the District be terminated. Should either recommendation be given by the Superintendent, a formal adversarial hearing shall be held before the Board as set forth in ACAA-R(1), Sexual Harassment – Regulations. (34 CFR § 106.45(b)(8)(ii))

## **IX. Appeal**

- A. Both parties have the right to appeal to the Board the Superintendent's determination regarding responsibility, and also from a dismissal of a formal complaint or any allegations therein, on the following bases:
  - 1. Procedural irregularity that affected the outcome of the matter; (34 CFR § 106.45(b)(8)(i)(A))
  - 2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; (34 CFR § 106.45(b)(8)(i)(B)) and
  - 3. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter. (34 CFR § 106.45(b)(8)(i)(C))
- B. As to all appeals, the Title IX Coordinator shall: (34 CFR § 106.45(b)(8)(iii))
  - 1. notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
  - 2. ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;
  - 3. ensure that the decision-maker(s) for the appeal complies with the standard of evidence as required in this policy;
  - 4. give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
  - 5. ensure that a written decision is issued describing the result of the appeal and the rationale for the result, and provide the written decision simultaneously to both parties.

## **X. Consolidation of Formal Complaints**

The District may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances. Where a grievance process involves more than one complainant or more than one respondent, references in this section to the singular "party," "complainant," or "respondent" include the plural, as applicable. (34 CFR § 106.45(b)(4))

## **XI. Dismissal of a Formal Complaint.**

- A. The District must investigate the allegations in a formal complaint. If the conduct alleged in the formal complaint would not constitute sexual harassment as defined in this policy even if proved, did not occur in the District's education program or activity, or did not occur against a person in the United States, then the District

must dismiss the formal complaint with regard to that conduct for purposes of sexual harassment, however the dismissal does not preclude action under another provision of the District's code of conduct. (34 CFR § 106.45(b)(3)(i))

- B. The District may dismiss the formal complaint or any allegations therein, if at any time during the investigation or hearing: (34 CFR § 106.45(b)(3)(ii))
  - 1. a complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
  - 2. the respondent is no longer enrolled in or employed by the District; or specific circumstances prevent the District from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.
- C. Upon a dismissal required or permitted pursuant to Section A. or B. above, the District shall promptly send written notice of the dismissal and reason(s) therefor simultaneously to the parties. (34 CFR § 106.45(b)(3)(iii))

## **XII. Recordkeeping (34 CFR § 106.45(b)(10))**

- A. The District shall maintain for a period of seven years records of:
  - 1. each sexual harassment investigation including any determination regarding responsibility, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the recipient's education program or activity;
  - 2. any appeal and the result therefrom;
  - 3. any informal resolution and the result therefrom; and
  - 4. all materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. A recipient must make these training materials publicly available on its website, or if the recipient does not maintain a website the recipient must make these materials available upon request for inspection by members of the public.
- B. For each response required under XII.A., the District shall create, and maintain for a period of seven years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment, document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the recipient's education program or activity. If the complainant is not provided with supportive measures, the District shall document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

## **XIII. Retaliation Prohibited (34 CFR § 106.71)**

- A. Neither the District or other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or this policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy.
- B. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by title IX or this policy, constitutes retaliation.
- C. Complaints alleging retaliation may be filed according to the grievance procedures for sex discrimination pursuant to the District's Nondiscrimination Policy.

- D. The exercise of rights protected under the First Amendment does not constitute retaliation prohibited by this provision.
- E. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy does not constitute retaliation prohibited by this policy, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

#### **XIV. Confidentiality**

- A. The District shall keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by Family Educational Rights and Privacy Act (FERPA), or as required by law, or to carry out the purposes of Title IX (34 CFR part 106), including the conduct of any investigation, hearing, or judicial proceeding arising thereunder. *(34 CFR § 106.71(a))*
- B. The District shall maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the District to provide the supportive measures. *(34 CFR § 106.30(a))*
- C.

Legal References: Moran vs Rapid City Area School District; CFR Title 34 Part 106; Title IX of the Education Amendments of 1972; USC Title 20 §1092(f)(6)(A)(v); USC Title 20 §1681-1688; USC Title 34 §12291(a)(10); USC Title 34 §12291(a)(30)

Cross References: JF – Student Rights and Responsibilities; JFA – Student Due Process Rights; JFC – Student Conduct; JFCC – Student Conduct on School Buses; JFCC-R(1) – Student Conduct on School Buses – (Regulation); JFCD – Bullying

Adopted: FY2011

Last Review: FY2023

Next Review Scheduled For: FY2028

<b>Arlington School District 38-1</b>	<b>NEPN Code: ACAA-R(1)</b>
<b>School Board Policy Reference Manual</b>	

## **SEXUAL HARASSMENT – Regulation**

### **SECTION 1 - Policy Statement**

The District is committed to a school environment which is free from sexual harassment and conducive to all students' educational opportunities. Sexual harassment can inhibit a student's educational opportunities and an employee's work. Sexual harassment of students attending school in the District or students from other schools who are at a District activity, and sexual 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 sexual 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's policy prohibiting sexual harassment is ACAA. This regulation supplements that policy, and the policy and these regulations are consistent with the federal regulations set forth in 34 CFR Part 106.

Students who violate the policy prohibiting sexual harassment 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 based on nondiscrimination in federal programs, complaint against school employees, and complaints related to bullying are addressed through other school district policies and not through the policy prohibiting sexual harassment and this regulation.*

### **SECTION 2 - Definitions**

- A. Sexual Harassment. Federal law (34 CFR § 106.30) defines "sexual harassment" as conduct on the basis of sex that satisfies one or more of the following:
1. An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;
  2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; or
  3. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

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, constitutes sexual harassment. 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 are not limited to:

- Unwelcome sexual flirtations, advances or propositions;
- Verbal comments, jokes, or abuse of a sexual nature;
- Graphic verbal comments about an individual's body;
- Sexually degrading words used to describe an individual;
- Displaying pornographic material;
- Physical contact or language of a sexually suggestive nature.

B. Other definitions. Other definitions applicable to these Regulations are the definitions as set forth in Policy ACAA, Sexual Harassment, Section V.

### **SECTION 3 - Sexual Harassment Reporting Procedure**

Any person may report sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX Coordinator.

Any student who believes that he or she has been or is being subjected to sexual harassment or has reason to suspect another person has been or is being subjected to sexual harassment may also report it to a teacher, guidance counselor, or school administrator. The report may be made verbally or in writing.

The written complaint or Sexual Harassment - Complaint Report Form, ACAA-E(1), must include the following:

- the date the written Complaint was filed or the Sexual Harassment - Complaint Report Form was completed,
- the school employee receiving the Complaint (if applicable),
- the name of the person reporting the sexual harassment,
- the address/phone # of the person reporting the sexual harassment,
- the specific conduct or nature of the sexual harassment complaint including the person(s) alleged to have sexually 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 sexual harassment .

If the signed written complaint was given to a teacher, guidance counselor or administrator, or if the Sexual Harassment - Complaint Report Form was completed by a teacher, guidance counselor or administrator, the teacher, guidance counselor or administrator shall forward the complaint or Sexual Harassment - Complaint Report Form to the Title IX Coordinator.

Regardless of whether or not a formal complaint is filed, should the District have actual knowledge of sexual harassment in a District educational program or activity against another person in the United States, the District shall respond promptly in a manner that is not deliberately indifferent (i.e., if the District's response to sexual harassment is clearly unreasonable in light of the known circumstances).

### **SECTION 4 - Retaliation Prohibited**

A. Neither the District or other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or this policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an

investigation, proceeding, or hearing under this policy.

- B. The prohibition against retaliation related to a sexual harassment complaint is set forth in full in Policy ACAA, Sexual Harassment, Section XIII, and by this reference incorporated herein as if set forth in full.

## **SECTION 5 - Procedure for Addressing Sexual Harassment Complaints**

### **A. General Provisions.**

1. The Title IX Coordinator shall promptly contact the complainant to discuss the availability of supportive measures (see Policy ACAA, V(m)) and consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.
2. The timeframes set forth in these regulations shall be considered as a maximum length of time within which the related step is to be completed, however, the time frame may be within which the District is required to complete a step may be extended for good cause upon written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause includes, but is not limited to, utilization of the informal resolution process, availability of an investigator if not a school employee, complexity of the investigation, absence of a party, a party's advisor, a witness, or decision-maker (including a person necessary for addressing an appeal), concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities;
3. Nothing in the policy or these regulations prohibit the District from removing a respondent from the District's education program or activity on an emergency basis, provided that the District undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal, however, nothing in the policy or regulations may be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act. Additionally, nothing in the policy or regulations prohibits the District from placing an employee respondent on administrative leave during the pendency of a grievance process, however, nothing in the policy or regulations may be construed to modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act.

### **B. Confidentiality**

1. The District shall keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by Family Educational Rights and Privacy Act (FERPA), or as required by law, or to carry out the purposes of Title IX (34 CFR part 106), including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.
2. The District shall maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the District to provide the supportive measures.

### **C. Informal Resolution:**

1. The District may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with this policy, may not require the parties to participate in an informal resolution process under this policy, and may not offer an informal

resolution process unless a formal complaint is filed.

2. Policy ACAA, Sexual Harassment, Section VII, is the section explaining informal resolution and by this reference incorporated herein as if set forth in full.

D. Formal Complaint:

1. Upon receipt of a formal complaint, the Title IX Coordinator shall provide the following written notice to the parties who are known:
  - a. Notice of the District's grievance process, including any informal resolution process.
  - b. Notice of the allegations of sexual harassment potentially constituting sexual harassment as defined in this policy, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known. The written notice must include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process. The written notice shall inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence. The written notice shall inform the parties of any provision in the District's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.
2. The District shall treat complainants and respondents equitably by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent. Remedies may be disciplinary in nature. Such remedies may include the same individualized services identified as supportive measures. Remedies must be designed to restore or preserve equal access to the District's education program or activity.
3. The District shall follow the grievance process before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent.

E. Investigation of a Formal Complaint

1. The District must investigate the allegations in a formal complaint. If the conduct alleged in the formal complaint would not constitute sexual harassment as defined in this policy even if proved, did not occur in the District's education program or activity, or did not occur against a person in the United States, then the District must dismiss the formal complaint with regard to that does not preclude action under another provision of the District's code of conduct.
2. Unless the nature of the complaint and investigation dictate otherwise, the Investigation should be completed within sixty (60) calendar days of receipt of the complaint.
3. When investigating a formal complaint and throughout the grievance process, the District:
  - a. shall have the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility;
  - b. shall provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence;
  - c. shall not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence, provided, however, nothing in this provision prohibits the

District from taking disciplinary action due to a party retaliating against any person due to that person having made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy;

- d. shall provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding; however, the District may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties.
4. If, in the course of an investigation, the District decides to investigate allegations about the complainant or respondent that are not included in the notice provided pursuant to provision D.1., the District shall provide notice of the additional allegations to the parties whose identities are known.
5. Any party whose participation is invited or expected, shall be given written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.
6. All parties shall have equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the recipient does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.
7. Prior to completion of the investigative report, the District must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least ten (10) calendar days to submit a written response, which the investigator will consider prior to completion of the investigative report. The District shall make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.
8. The investigator shall create an investigative report that fairly summarizes relevant evidence and, at least ten (10) calendar days prior to a determination by a decision-maker regarding responsibility, send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

#### F. Determination

1. The decision-maker shall not be the same person as the Title IX Coordinator or investigator(s).
2. After the Investigator has sent the investigative report to the parties, and before reaching a determination regarding responsibility, the decision-maker must afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. All parties shall have ten (10) calendar days from the date the investigatory report was sent to the parties to submit written, relevant questions to the decision-maker, who shall forward the questions to the other party following the ten (10) period, unless all parties submitted questions prior to the end of the ten (10) day period and in such case the decision-maker shall forward the questions upon receipt of questions by all parties. All parties shall have (5) calendar days to submit to the decision-maker and the other parties any written responses to the questions.



3. The decision-maker shall have fourteen (14) calendar days, after the expiration of time frame set forth in E.8. above, to issue a written determination as to the complaint.
4. The decision-maker shall not conduct an adversarial hearing unless the Board conducts a hearing following an appeal of the Superintendent's decision to the Board, or following the Superintendent's recommendation to the Board that a student determined to have sexually harassed another person be suspended long-term or expelled or recommend to the Board that an employee determined to having sexually harassed another person be suspended without pay or the person's employment with the District be terminated.
5. Standard of evidence. For all formal complaints of sexual harassment filed against students and employees, the standard of evidence to be used to determine responsibility is the preponderance of the evidence standard.
6. Upon recommendation of a decision-maker, on following an appeal of the decision-maker's determination, the Superintendent may make a recommendation to the Board that a student determined to have sexually harassed another person be suspended long-term or expelled (ARSD 24:07:01:01). The Superintendent may also make a recommendation to the Board that an employee determined to having sexually harassed another person be suspended without pay or the person's employment with the District be terminated. Should either recommendation be given by the Superintendent, a formal adversarial hearing shall be held before the Board.
7. Disciplinary sanctions. Following any determination of responsibility the District may implement disciplinary sanctions and remedies that include, but are not limited to:
  - a. if a student:
    - i. loss of privileges;
    - ii. detention;
    - iii. in-school suspension;
    - iv. long-term suspension;
    - v. expulsion.
  - b. if an employee
    - i. written reprimand;
    - ii. written plan of improvement, which may include directive to obtain training related sexual harassment and the prohibition against sexual harassment;
    - iii. suspension without pay;
    - iv. termination of employment.
  - c. if a guest or vendor
    - i. restrict access to school property;
    - ii. deny access to school property.
8. The decision-maker must issue a written determination regarding responsibility. To reach this determination, the decision-maker shall apply the preponderance of evidence standard of evidence.
9. The written determination shall include:
  - a. identification of the allegations potentially constituting sexual harassment;
  - b. a description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
  - c. findings of fact supporting the determination;
  - d. conclusions regarding the application of the District's code of conduct to the facts;
  - e. a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the District imposes on the respondent, and

- whether remedies designed to restore or preserve equal access to the recipient's education program or activity will be provided by the District to the complainant; and
- f. the District's procedures and permissible bases for the complainant and respondent to appeal.

10. The District shall provide the written determination to the parties simultaneously.

11. The determination regarding responsibility becomes final either on the date that the recipient provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

#### G. Appeal

1. Both parties have the right to appeal to the Board the Superintendent's determination regarding responsibility, and from a dismissal of a formal complaint or any allegations therein, on the following bases:
  - a. Procedural irregularity that affected the outcome of the matter;
  - b. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
  - c. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.
2. As to all appeals, the Title IX Coordinator shall:
  - a. notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
  - b. ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;
  - c. ensure that the decision-maker(s) for the appeal complies with the standard of evidence as required in this policy;
  - d. give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
  - e. ensure that a written decision is issued describing the result of the appeal and the rationale for the result, and provide the written decision simultaneously to both parties.
3. Appeal to the Superintendent. The following procedure shall be used to address an appeal of the decision-maker's determination to the Superintendent:
  - a. If a party is not satisfied with the decision-maker's determination, or if the decision-maker's determination does not without good cause render a written decision within fourteen (14) calendar days of the expiration of time frame set forth in E.8., that party may appeal to the Superintendent by filing form ACAA-E(2), Sexual Harassment - Complaint Appeal to the Superintendent. The appeal must be filed within ten (10) calendar days of receipt of the decision-maker's written decision, or ten (10) days of the deadline for the decision-maker's written decision, whichever comes first. The appealing party must attach the decision-maker's

written determination.

- b. 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 decision-maker's decision, or the Superintendent may refer the matter back to the decision-maker for further investigation and supplemental decision which decision may restate, modify or reverse the decision-maker's initial decision. A supplemental decision by the decision-maker after a referral back to the decision-maker may be appealed to the Superintendent.
4. Appeal to the School Board. If a party is not satisfied with the Superintendent's decision, or if the Superintendent does not without good cause 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 ACAA-E(3), Sexual Harassment – Complaint Appeal to the School Board, within ten (10) calendar days of receipt of the Superintendent's written decision, or ten (10) 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 decision-maker'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 sexual harassment 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 sexual 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 sexual 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 decision-maker 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 sexual 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.

## **SECTION 6 - Miscellaneous**

A. Consolidation of formal complaints. The District may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances. Where a grievance process involves more than one complainant or more than one respondent, references in this section to the singular “party,” “complainant,” or “respondent” include the plural, as applicable.

B. Dismissal of Complaint:

1. The District may dismiss the formal complaint or any allegations therein, if at any time during the investigation or hearing:
  - a. a complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
  - b. the respondent is no longer enrolled in or employed by the District; or specific circumstances prevent the District from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.
2. Upon a dismissal required or permitted pursuant to B.1. above, the District shall promptly send written notice of the dismissal and reason(s) therefor simultaneously to the parties.
3. Any party whose participation is invited or expected, shall be given written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.
4. Both parties shall have equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the recipient does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

Legal References: Moran vs Rapid City Area School District; CFR Title 34 Part 106; Title IX of the Education Amendments of 1972; USC Title 20 §1092(f)(6)(A)(v); USC Title 20 §1681-1688; USC Title 34 §12291(a)(10); USC Title 34 §12291(a)(30)

Cross References: JF – Student Rights and Responsibilities; JFA – Student Due Process Rights; JFC – Student Conduct; JFCC – Student Conduct on School Buses; JFCC-R(1) – Student Conduct on School Buses – (Regulation); JFCD – Bullying

Adopted: FY2023

Last Review: FY2023

Next Review Scheduled For: FY2028

<b>Arlington School District 38-1</b>	<b>NEPN Code: ACAA-E(1)</b>
<b>School Board Policy Reference Manual</b>	

**SEXUAL HARASSMENT  
COMPLAINT REPORT FORM**

Date Form Completed: \_\_\_\_\_

Form Completed by: \_\_\_\_\_

Person Reporting the Sexual Harassment: \_\_\_\_\_

\_\_\_\_\_

Address/Phone # of the Person Reporting the Sexual Harassment:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Nature of Complaint: (With specificity, identify the person(s) alleged to have sexually harassed, the conduct which is the basis of the sexual harassment complaint, when/where the conduct occurred, the person(s) alleged to have sexually harassed, witnesses, and any other pertinent information):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ (use additional sheets if necessary).

\_\_\_\_\_

Date School Employee Completing the Sexual Harassment Report Form

\_\_\_\_\_

Date Person Reporting the Sexual Harassment

Adopted: 3/30/2015 Revised: Reviewed:
---

Cross References: JF – Student Rights and Responsibilities; JFA – Student Due Process Rights; JFC – Student Conduct; JFCC – Student Conduct on School Buses; JFCC-R(1) – Student Conduct on School Buses – (Regulation); JFCD – Bullying

Adopted: FY2023

Last Review: FY2023

Next Review Scheduled For: FY2028

<b>Arlington School District 38-1</b>	<b>NEPN Code: ACAA-E(2)</b>
<b>School Board Policy Reference Manual</b>	

**SEXUAL HARASSMENT  
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 SEXUAL HARASSMENT REPORT AND THE PRINCIPAL'S DECISION.

<hr/>	<hr/>
Date	Complainant
<hr/>	<hr/>
Date Received	Superintendent

Adopted: 3/30/2015 Revised: Reviewed:
---

Legal References: Moran vs Rapid City Area School District; CFR Title 34 Part 106; Title IX of the Education Amendments of 1972; USC Title 20 §1092(f)(6)(A)(v); USC Title 20 §1681-1688; USC Title 34 §12291(a)(10); USC Title 34 §12291(a)(30)



Cross References: JF – Student Rights and Responsibilities; JFA – Student Due Process Rights; JFC – Student Conduct; JFCC – Student Conduct on School Buses; JFCC-R(1) – Student Conduct on School Buses – (Regulation); JFCD – Bullying

Adopted: FY2023

Last Review: FY2023

Next Review Scheduled For: FY2028

<b>Arlington School District 38-1</b>	<b>NEPN Code: ACAA-E(3)</b>
<b>School Board Policy Reference Manual</b>	

**SEXUAL HARASSMENT  
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 SEXUAL HARASSMENT REPORT, PRINCIPAL'S DECISION, APPEAL TO THE SUPERINTENDENT (Exhibit ACAA-E(2)), EMPLOYEE'S STEP 2 WRITTEN RESPONSE, AND SUPERINTENDENT'S DECISION.

Date	Complainant
Date Received	Business Manager

Adopted: 3/30/2015 Revised: Reviewed:
---

Legal References: Moran vs Rapid City Area School District; CFR Title 34 Part 106; Title IX of the Education Amendments of 1972; USC Title 20 §1092(f)(6)(A)(v); USC Title 20 §1681-1688; USC Title 34 §12291(a)(10); USC Title 34 §12291(a)(30)

Cross References: JF – Student Rights and Responsibilities; JFA – Student Due Process Rights; JFC – Student Conduct; JFCC – Student Conduct on School Buses; JFCC-R(1) – Student Conduct on School Buses – (Regulation); JFCD – Bullying

Adopted: FY2023

Last Review: FY2023

Next Review Scheduled For: FY2028

<b>Arlington School District 38-1</b>	<b>NEPN Code: ACAB</b>
<b>School Board Policy Reference Manual</b>	

## PROHIBITION AGAINST AIDING OR ABETTING SEXUAL ABUSE

Employees, contractors and agents of the Arlington School District are prohibited from assisting another school employee, contractor or agent in obtaining a new job if the District or the employee, contractor or agent of the District has knowledge of, or probable cause to believe, that the employee engaged in sexual misconduct with a minor or a student in violation of the law.

- **“Assisting”** includes but is not limited to giving a positive recommendation to a potential employer, but does not include the routine transmission of administrative and personnel files or information related to name of employee, contractor or agent, dates of employment/contract, and position held or work performed.
- **“Probable cause”** exists where the facts and circumstances within the [person’s] knowledge, and of which they have reasonably trustworthy information, are sufficient in themselves to warrant a belief by a man of reasonable caution that [an offense] has been or is being committed.”<sup>1</sup>
- **“Sexual misconduct”** is the umbrella term federal regulators use to categorize behavior that includes sexual assault, unwanted sexual contact, and sexual harassment.”<sup>2</sup>

The requirements of this prohibition do not apply if the information giving rise to probable cause has been properly reported to a law enforcement agency, or any other authorities as required by local, state or federal law or regulations, AND at least one of the following conditions applies:

1. The matter has been officially closed or the prosecutor or police with jurisdiction over the alleged misconduct has investigated the allegations and notified school officials that there is insufficient information to establish probable cause that the school employee, contractor or agent engaged in sexual misconduct regarding a minor or student in violation of the law; or
2. The school employee, contractor or agent has been charged with, and acquitted or otherwise exonerated of the alleged misconduct; or
3. The case or investigation remains open and there have been no charges filed against or indictment of the school employee, contractor or agent within four years of the date on which the information was reported to a law enforcement agency.

<sup>1</sup>State v. Stuck, 434 N.W.2d 43 (SD 1988)

<sup>2</sup>Rice University Student Judicial Programs, Sexual Misconduct Policy

Legal References: State vs Stuck; SDCL 13-10-15; SDCL 60-4-12; Rice University/Student Judicial Programs; USC Title 20 §1681-1688; USC Title 20 §7926

Cross References: JHG – Reporting Child Abuse

Adopted: FY2023

Last Review: FY2023

Next Review Scheduled For: FY2028

<b>Arlington School District 38-1</b>	<b>NEPN Code: ACB</b>
<b>School Board Policy Reference Manual</b>	

## **NONDISCRIMINATION ON THE BASIS OF HANDICAP/DISABILITY**

It will be the policy of the District to adhere to the concept of nondiscrimination on the basis of handicapping 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 handicapped person in any aspect of school division employment solely on the basis of handicap.
2. Make facilities, programs and activities accessible, usable, and open to qualified handicapped persons.
3. Provide free appropriate education at elementary and secondary levels, including nonacademic and extracurricular services and activities, to qualified handicapped persons.
4. Not exclude any qualified handicapped person solely on the basis of handicap 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 handicapped person with the same health, welfare, and social services as are provided other persons.

The Board holds the general view that:

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

Accordingly, employees of the 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 handicap. The Board designates the superintendent or superintendent's designee to act as the District's compliance officer for employees and students.

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

Legal References:

Cross References: AC – Nondiscrimination in Federal Programs

Adopted: FY2011

Last Review: FY2023

Next Review Scheduled For: FY2028

<b>Arlington School District 38-1</b>	<b>NEPN Code: AD</b>
<b>School Board Policy Reference Manual</b>	

## **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 and varied educational experiences so that a child 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.

Legal References:

Cross References:

Adopted: FY2011

Last Review: FY2023

Next Review Scheduled For: FY2028

<b>Arlington School District 38-1</b>	<b>NEPN Code: AE</b>
<b>School Board Policy Reference Manual</b>	

## **WELLNESS**

To support its mission, the District will provide an environment that cultivates maximum student potential. Nutrition influences a child's development, health, well-being and potential for learning. To afford students the opportunity to fully participate in the educational process, students must attend school with minds and bodies ready to take advantage of their learning environment. This district-wide nutrition policy encourages all members of the school community to create an environment that supports lifelong healthy eating habits. Decisions made in all school programming need to reflect and encourage positive nutrition messages and healthy food choices.

The policy of the School District is to:

1. Provide a positive environment and appropriate knowledge regarding food:
  - a. Ensure that all students have access to healthy food choices during school and at school functions.
  - b. Provide a pleasant eating environment for students and staff.
  - c. Allow a minimum of 20 minutes for students to eat lunch and socialize in the designated cafeteria area.
  - d. Enable all students, through a comprehensive curriculum, to acquire the knowledge and skills necessary to make healthy food choices for a lifetime.
2. When using food as a part of class or student incentive programs, staff and students are encouraged to utilize healthy, nutritious food choices.
3. When curricular-based food experiences are planned, staff and students are encouraged to seek out good nutrition choices whenever appropriate.
4. Reduce student access to foods of minimal nutritional value.
  - a. In keeping with contractual obligations to the National School Lunch/Breakfast programs, ensure the integrity of the school lunch program by prohibiting food and beverage sales that are in direct conflict with the lunch/breakfast programs.
  - b. Encourage the practice of good nutrition by reducing the sale or distribution of foods of minimal nutritional value through a four-year plan that focuses on:
    - i. Reducing access to non-nutritional foods.
    - ii. Educating students about healthy foods.
    - iii. Selective pricing that favors sales of healthy foods.
5. To accomplish these goals:
  - a. Child Nutrition Programs comply with federal, state and local requirements.
  - b. Child Nutrition Programs are accessible to all children.
  - c. Sequential and interdisciplinary nutrition education is provided and promoted.
  - d. Patterns of meaningful physical activity connect to students' lives outside of physical education.
  - e. All school-based activities are consistent with local wellness policy goals.
  - f. All foods and beverages made available on campus (including vending, concessions, a la carte, student stores, parties, and fundraising) during the school day are consistent with the current Dietary Guidelines for Americans.
  - g. All foods made available on campus adhere to food safety and security guidelines.



- h. The school environment is safe, comfortable, pleasing, and allows ample time and space for eating meals. Food and/or physical activity is not used as a reward or punishment.

## **Wellness Policy Arlington Public School District 38-01**

### Policy Committee

- District Food Service Director
- District Superintendent
- District Physical Ed Instructor
- District LPN
- Teacher
- School Board Representative
- Parent Representative
- Special Education Teacher
- Student Representative

Adopted May, 2014

This Wellness Policy has been modeled after the South Dakota Board of Education's Model Wellness Policy from September 24, 2012.

### **Introduction**

The Arlington School District 38-1 set forth this policy for the schools under the Arlington School Food Authority's jurisdiction as required by the Healthy Hungry Free Kids Act (HHFKA) of 2010.

### **Rationale**

Due to the increasing rates of obesity and overweight youth the future health and productivity of our children is threatened. The District is taking steps to assure that future education at this institution will include steps to insure better health for all students.

A healthy school environment goes beyond the school meals which are closely monitored by the District. Living a healthy lifestyle and maintaining a healthy weight requires a combination of healthy food choices, knowledge of nutrition, and proper physical activity. Healthy, physically active students are more likely to be academically successful and happy.

### **Notification to the Public**

This Wellness Policy will be reviewed, updated, and reported to the community annually. It will be reported by means of the school website which can be found at [www.arlington.k12.sd.us](http://www.arlington.k12.sd.us). It will also be available at the main office for those who wish to have or look at a print copy.

### **Implementation Compliance Personnel**

The District Superintendent, will be responsible for overseeing the implementation in order to make certain that the District is complying with this Wellness Policy. He may designate other staff members from the committee to assist him.

### **Wellness Policy Components**

- Nutrition Education and Promotion
- Physical Activity, Physical Education, and Promotion
- Other School Based Activities
- Nutrition Standards

### **Measurement and Assessment**

The District designated the school physical education teacher and the food service director to annually assess and document the implementation of this Wellness Policy. This assessment will include:

- Establishment of goals for nutrition education and promotion; physical activity, physical education, and promotion; nutrition standards; and other school-based activities.
- Identification of stakeholders involved in the development and implementation of the local wellness plan.
- Means of informing the public about the content and implementation of the Wellness Plan.
- Attainment of goals associated with the Wellness Plan.

### **Nutrition Education and Promotion Component**

The primary goal of nutrition education and promotion is to influence students' lifelong eating habits. Nutrition education will be offered as part of a sequential, comprehensive, standards-based program designed to provide students with the knowledge and skills necessary to promote their health. Nutrition promotions are messages targeted to a specific audience to inspire/motivate them to take action. Nutrition education and nutrition promotions will be incorporated into the school day as often as possible.

#### **Nutrition Education and Nutrition Promotion:**

- Nutrition education and nutrition promotion are intended for students, staff, parents, and community members.
- Nutrition education and nutrition promotion provide consistent scientifically-based nutrition messages throughout the school, classroom, cafeteria, home, community, and media.
- Nutrition education and nutrition promotion are part of health education classes and/or stand alone classes which include Health Ed and Dietetics and Nutrition at the high school level.
- Nutrition education is included in the scope and sequence of the curriculum in core subjects such as math, science, language arts, and social sciences, as well as in elective subjects and guidance classes.
- The school cafeteria serves as a learning laboratory to allow students to apply critical thinking skills taught in the classroom.
- Nutrition education follows the SD Health Education Standards to include health knowledge and skills.
- Nutrition education and nutrition promotion provide enjoyable, developmentally appropriate, culturally relevant, and participatory activities.
- Nutrition education and nutrition promotion shares information with families to encourage the learning to continue and healthy habits to continue at home.
- Nutrition education and nutrition promotion will be provided by staff who are adequately prepared and who participate in professional development activities in order to deliver effective programming.
- Nutrition promotion will create a school environment that inspires and enables healthy nutrition choices.
- Nutrition promotion will include an action plan that will have observable and measurable goals and objectives for nutrition promotion.
- Nutrition promotion encourages staff to be role models for health and to exhibit a positive outlook toward healthy behaviors.
- School staff and parents will be encouraged to celebrate nutrition accomplishments and to share successes.

### **Physical Activity, Education, and Promotion Component**

- The primary goal for the 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, reduce sedentary time, and provide health education in order to instill an understanding of the short and long-term benefits of a physically active and healthy lifestyle.

### **Daily Physical Education Classes K-12**

- All students in grades K-8 will receive physical education and/or physical activity for a minimum of 150 minutes per week for the entire school year. High school students are required to take one semester of daily physical education and one semester of daily health education during their high school years. Students with disabilities and those with special health care needs will be included.
- Students will spend at least 50% of physical education class time participating in moderate to vigorous physical activity.
- The physical education curriculum should demonstrate progression and sequence and be consistent with South Dakota and/or National Physical Education standards for Pre-K through grade 12.
- All physical education will be taught by highly qualified physical education teachers.
- Student participation in other activities involving physical activity (e.g. sports) will not be substituted for meeting the physical education requirement.

### **Physical Activity Across the Curriculum**

- Physical activities will be regularly incorporated into other subject areas besides physical education. This will not be a substitute for physical education classes.
- Designated physical education time will not be used for the purpose of teaching students academic lessons and/or for therapies.

### **Recess and Transitional Time**

- All elementary school students (K-6) will have at least 20 minutes a day of supervised recess, preferably outdoors, during which students are encouraged (verbally and through the provision of space and equipment) to engage in moderate to vigorous physical activity.
- Extended periods of inactivity, two hours or more, are discouraged. When activities, such as mandatory school-wide testing, make it necessary for students to remain indoors for long periods of time, students will be given periodic breaks during which they are encouraged to stand and be moderately active.
- When appropriate, physical activity should be encouraged during free time.

### **Physical Activity Opportunities Before and After School**

- Activities will be offered that meet the needs, interests, and abilities of all students.
- Elementary, middle, and high school students will be offered extracurricular physical activity programs.
- The high school and middle school will offer interscholastic sports programs as appropriate.
- After-school programs will provide and encourage (verbally and through the provision of space, equipment, and activities) daily periods of moderate to vigorous physical activity for all participants.
- Students will be encouraged to seek active transportation (walking, biking, etc.) to and from school as appropriate.

### **Withholding or Punishing**

- Food will not be denied students as a consequence for inappropriate behavior or academic performance.
- Teachers and other school personnel will not prohibit or deny students participation in recess or other physical activity unless such action has been approved by administration as an appropriate action to take.

### **Use of School Facilities Outside of School Hours**

- When proper supervision and facilities are available, school facilities will be available to students, staff, and community members. This may also include weekends and periods of vacation. The over-riding authority will be the head custodian and superintendent.
- School policies concerning safety will apply at all times.

### **Other School-Based Activities Component**

- Schools will create an environment that provides and demonstrates consistent wellness messages, is conducive to healthy eating and physical activity, and contributes to forming healthy life long habits for students, staff and community.

### **Employee Wellness**

- Staff members are provided opportunities to participate in physical activities and healthy eating programs.
- School staff will serve as role models and will practice healthy eating, physical activity, and other activities that support staff and student wellness.

### **Professional Development**

- School will provide professional development regarding the impact of nutrition and physical activity on academic performance to food service professionals, educators, administrators, and other staff.

### **Eating Environment**

- Students and staff will have adequate space to eat meals in clean, safe, pleasant surroundings and will have adequate time (seat time 10 minutes for breakfast and 20 minutes for lunch).
- Convenient access to facilities for hand washing and oral hygiene will be available during all meal periods.
- Schools will schedule recess, if possible, for elementary grades before lunch so that children will come to lunch less distracted and ready to eat. If not possible to have recess before lunch a designated time will be used to eat lunch and all students will be dismissed at the same time so that students do not rush to eat and leave for recess. Activity before lunch also encourages nutrient intake.

### **Convenient and Safe Drinking Water**

- Schools will promote drinking water availability as an essential component of student wellness by having access to free, safe drinking water and encouraging student consumption of water throughout the school day.

### **Rewards, Incentives, and Consequences**

- Rewards and incentives will be given careful consideration as to the messages they send to the students receiving them. Unhealthy food items will not be used as a reward or incentive in the classroom, but other more appropriate rewards may be used (e.g. extra free time, physical activity opportunity, pencils, bookmarks, etc.)

### **Vending Machines and Fundraisers**

- Vending machines with food or beverages will not be available to elementary students during the school day. After school only water and low sugar or no sugar items will be available in vending machines.
- School fundraising activities will support healthy lifestyles.
- The sale of food or beverages as a fundraiser will not from one hour prior to one hour after breakfast or lunch.
- The school will encourage fundraising activities that promote physical activity and/or the sale of healthy products.

### **Safe Routes to School**

- The school district will assess and make improvements if necessary to make sure it is both safe and easy for students to walk and bike to school if appropriate. When appropriate, the district will work together with local public works, public safety, and/or police departments in these efforts.
- The school district will encourage students to use public transportation when available and appropriate for travel to and from school.

### **Nutrition Standards Component**

- Students' life-long eating habits are greatly influenced by the types of foods and beverages available to them. Foods of good nutritional content including fruits, vegetables, low-fat dairy foods, lean meat, whole grain products, and plain water will be available wherever and whenever food is sold or otherwise offered at school during the normal school day. Examples include snacks, vending machines, fund raising activities, parties, celebrations, and other school sponsored events during the normal school day.

### **General Guidelines**

- Foods and beverages of good nutritional values will be available whenever food and beverages are sold, served or brought onto school grounds or at school-sponsored events during the normal school day.
- Procedures will be in place for providing information to families, upon request, about the ingredients and nutritional values of the foods served.
- Prices will be set to encourage the purchase of school meals and the purchase of healthy foods and beverages whenever they are sold throughout the school day.
- The School Food Service Program will operate in accordance with the National School Lunch Act and applicable South Dakota law and regulations. The school will also comply with USDA regulations and state policy.
- The school lunch and breakfast program will offer varied and nutritious food choices consistent with the Dietary Guidelines for Americans and the Standards for Food and Beverages set forth in this policy. Choices will encourage diets that promote health and reduce chronic disease risks.
- Students with special dietary needs will be accommodated.

### **A La Carte Offering in the Food Service Program**

- A la carte items available during the school day will meet the Standards for Food and Beverages set forth in this Policy.
- The school food service department will not offer or serve extra portions unless the item is from the fresh fruit and vegetable salad bar or unless the item is sold as a la carte.

### **Snacks**

- Snacks provided by teachers to students should meet the Standards for Food and Beverages set forth in this Policy.
- Teachers who ask parents to provide snacks will provide them with a list of easy, healthy, affordable snacks options.

### **Parties and Celebrations**

- The school will limit celebrations that involve food during the school day. Instead fun, healthy celebration ideas such as classroom games will be utilized.
- Each party should include no more than one food or beverage that does not meet the Standards for Food and Beverages outlined in this policy.

### **School Sponsored Events**

- Healthy choices of food and beverages that meet the Standards for Food and Beverages will be offered at school sponsored events outside the school day.

### **Other Sales Venues**

- All foods and beverages sold in school should strive to meet the Standards for Food and Beverages.

### **Best Choices for sale and snack items**

- Granola bars, whole-grain fruit bars
- Nuts and seeds-plain or with spices
- Nut mix
- Trail mix
- Fresh fruit
- Dried fruit
- Fresh vegetables
- Low sodium varieties of jerky
- Yogurt, low fat
- String cheese
- Fruit/Vegetable 100% juices
- 1% or skim milk
- Plain water
- Dry roasted peanuts, tree nuts, and soy nuts
- Frozen fruit juice bars with no sugar or corn syrup

### **Good Choices for sale and snack items**

- Nuts with light sugar covering; honey-roasted
- Popcorn without hydrogenated fats
- Individually packed fruit in natural juices only • Fruit leather
- Animal crackers and graham crackers
- Pretzels
- Low fat ice cream and sherbet bars
- Peanut butter and crackers
- Low-fat pudding
- Baked chips and corn nuts

### **Standards for Food and Beverages Served or Sold at Arlington School**

1. Follow USDA Healthier US School Challenge Competitive Foods Criteria for Bronze/Silver Award. Complete guidance to be found at: <http://www.fns.usda.gov/tn/healthierus/2012criteria.chart.html>
2. We will attempt to follow the following list of guidelines.
  - Total Fat: Calories from total fat must be at or below 35%. (excluding nuts, seeds, nut butters and reduced-fat cheese)
  - Trans. Fat: "Trans fat-free" less than 0.5g trans-fat per serving
  - Saturated Fat: Calories from saturated fat must be below 10%. Reduced fat cheese is exempt.
  - Sugar: Total sugar must be at or below 35% by weight. (includes naturally occurring and added sugars) Fruits and vegetables are exempt.
  - Sodium: Must be at or below 480 mg per side dish/entrée. Must be at or below 600 mg per main dish/entrée.

- Portion sizes: Not to exceed the serving size of the food served in the NSLP/SBP; for other sales, the item package or container is not to exceed 200 calories.
- Fruits and Non-Fried Vegetables: Fruits and vegetables may be fresh, frozen, canned, or dried, and they must be found in Chapter 2 of the Food Buying Guide. Dried fruit must have no added sweeteners; canned fruit must be packed in juice or light syrup.
- Milk: Only low-fat (1% or less) or fat-free milk meeting state and local standards for pasteurized milk and/or USDA approved alternative dairy beverages may be offered daily.
- Milk Serving Size: Milk serving size is limited to 8-fluid ounces.
- Other approved Beverages: Fruit and vegetable juices: 100% full strength with no sweeteners or non-nutritive sweeteners. Water (non-flavored, non-sweetened, noncarbonated, non-caffeinated, without non-nutritive sweeteners)
- Juice Serving Size: Elementary/Middle School: 6 fluid ounces, High School: 8 fluid ounces

Legal References:

Adopted: FY2014

Last Review: FY2023

Next review scheduled for: FY2028

<b>Arlington School District 38-1</b>	<b>NEPN Code: AEA</b>
<b>School Board Policy Reference Manual</b>	

## **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 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.

\*A student in violation of this policy, first offense, shall be required to complete a written assignment. The assignment is for the purpose of helping the student understand the consequences of tobacco use. It shall be given to the building principal or principal's designee, will be grade appropriate for purposes of length and content, and may include, but is not limited to, research on South Dakota QuitLine. Students violating this policy on subsequent occasion(s) shall be subject to disciplinary action pursuant to district policy.

OR

\*Students violating this policy shall be subject to disciplinary action pursuant to district policy. A student in violation of this policy may also be required to complete a written assignment. The assignment is for the purpose of helping the student understand the consequences of tobacco use. It shall be given to the building principal or principal's designee, will be grade appropriate for purposes of length and content, and may include, but is not limited to, research on South Dakota QuitLine.

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



Legal References: SDCL 13-8-39; SDCL 34-46-14

Adopted: FY2011

Last Review: FY2023

Next Review Scheduled For: FY2028

<b>Arlington School District 38-1</b>	<b>NEPN Code: AGA</b>
<b>School Board Policy Reference Manual</b>	

## **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.

Legal References: ARSD 24:07; SDCL 1-25-2; SDCL 1-26-18; SDCL 1-26-26; SDCL 13-10; SDCL 13-32; SDCL 13-43

Cross References: GCPD – Suspension Without Pay and Dismissal of Professional Staff Members

Adopted: FY2023

Last Review: FY2023

Next Review Scheduled: FY2028

<b>Arlington School District 38-1</b>	<b>NEPN Code: AH</b>
<b>School Board Policy Reference Manual</b>	

## **CONFLICT OF INTEREST DISCLOSURE AND AUTHORIZATION**

*SDCL 3-23-6 states*

*“3-23-6. No board member, business manager, chief financial officer, superintendent, chief executive officer, or other person with the authority to enter into a contract or spend money in an amount greater than five thousand dollars of a 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 in amount greater than five thousand dollars or multiple contracts in an amount greater than five thousand dollars with the same party within a twelve-month period to which the school district, cooperative education service unit, or education service agency is a party except as provided in § 3-23-8.”*

### **I. DEFINITIONS:**

- a. “School Official” refers to a school board member, business manager, chief financial officer, superintendent, chief executive officer, or other person with the authority to enter into a contract or spend money in an amount greater than five thousand dollars.
- b. “Interest in a contract” is when (1) a School Official, the spouse of a School Official or any other person with whom the School Official lives and commingles assets, is employed by a party to any contract with the school district; or (2) the School Official, the spouse of a School Official, or any other person with whom the School Official lives and commingles assets, receives more than nominal compensation or reimbursement for actual expenses for serving on the board of directors of an entity that derives income or commission directly from the contract or acquires property under the contract.
- c. “Direct benefit from a contract” is when a School Official, the spouse of a School Official or any other person with whom the School Official lives and commingles assets (1) is a party to or intended beneficiary of the contract between the school district and a third party, or (2) has more than a five percent ownership interest in an entity that is a party to the school district contract, or (3) acquires property under the contract with the school district, or (4) receives compensation, commission, promotion, or other monetary benefit directly attributable to any contract.

### **II. PROHIBITION:**

This policy prohibits School Officials board members, business manager, superintendent, and any other person who has the authority to enter into a contract or spend money on behalf of the school district from having an interest in a contract or receiving a direct benefit from one or more contracts between the school district and a third party, if the total contract amount is more than \$5,000 within a 12 month period, unless the School Official discloses to the school board his or her interest in the contract, or in the case of a direct benefit from the contract, discloses the direct benefit and receives school board authorization to receive the benefit.

### **III. EXCEPTIONS:**

If any of the following apply, the School Official does not have an interest in the contract and does not derive a direct benefit from a contract, and disclosure (and authorization, if a direct benefit) is not required:

1. when the person's relationship to the contract is based solely on the value associated with the person's publicly-traded investments or holdings, or the investments or holdings of any other person with whom the board member, business manager, chief financial officer, superintendent, or chief executive officer lives or commingles assets;
2. when the person's relationship to the contract is due to participating in a vote or a decision in which the person's only interest arises from an act of general application;
3. when the person's relationship to the contract is due to the person receiving income as an employee or independent contractor of a party with whom the school district, cooperative education service unit, or education service agency has a contract, unless the person receives compensation or a promotion directly attributable to the contract, or unless the person is employed by the party as a board member, executive officer, or other person working for the party in an area related to the contract;
4. when the contract is for the sale of goods or services, or for maintenance or repair services, in the regular course of business at a price at or below a price offered to all customers;
5. when the contract is subject to a public bidding process;
6. when the contract is with the official depository as set forth in SDCL 6-1-3;
7. when the person only receives income or compensation, a per diem authorized by law or reimbursement for actual expenses incurred; or
8. when the contract or multiple contracts with the same party within a twelve-month period with whom the school district contracts in an amount less than five thousand dollars.

#### **IV. DISCLOSURE:**

A *School Official* who has an interest in a contract or who receives a direct benefit from a contract must disclose to the school board the existence of a contract in which the person has an interest or receives a direct benefit.

1. the disclosure must include the following: (i) all parties to the contract, (ii) the person's role in the contract, (iii) the purpose or objective of the contract, (iv) the consideration or benefit conferred or agreed to be conferred upon each party, and (v) the duration of the contract;
2. the disclosure must be in writing;
3. to the extent circumstances allow, disclosure must be given prior to entering into any contract that requires disclosure, and if circumstances do not permit disclosure prior to entering into the contract then within forty-five days after entering into the contract, and if the contract extends into consecutive fiscal years, disclosure shall also be made at the annual reorganization meeting.
4. The school board will have a regular agenda item at the beginning of the school board meeting agenda at which time the school board will address conflict of interest disclosures.
5. Conflict of interest disclosures must be submitted to the President 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 meeting agenda for the next school board meeting. Conflict of interest disclosures submitted to the President of the School Board, the Superintendent or the Business Manager after the proposed agenda has been posted may be deferred until the following school board meeting.

## V. BOARD ACTION UPON DISCLOSURE:

1. interest in the contract:
  - a. the school board is not required to authorize a School Official's interest in a contract;
  - b. the interest disclosure must be included in the official minutes of the school board (the official minutes are not required to be sent to the auditor-general and attorney general).
2. Direct benefit from a contract:
  - a. the school board shall review the disclosure and decide if the terms of the contract are fair and reasonable, and if the contract is contrary to the public interest.
    - i. if the school board determines the contract terms from which a direct benefit is derived are fair and reasonable, and that the contract is not contrary to the public interest, the school board shall vote to authorize the School Official to derive a direct benefit from the contract.
    - ii. After the school board authorizes a School Official to derive a direct benefit from a contract, no further disclosure or authorization related to the contract is required unless the contract extends into consecutive fiscal years. If the contract extends into consecutive fiscal years, disclosure must be made at the annual reorganization meeting but no new authorization is required.
  - b. If the school board determines the contract terms from which a direct benefit is derived are not fair and reasonable, or is contrary to the public interest, the school board shall vote to not authorize the School Official to derive a direct benefit from the contract. If the school board votes to not authorize a direct benefit, the contract is voidable and subject to disgorgement (i.e., the act of giving up on demand or by legal compulsion something that was obtained by illegal or unethical acts) or the person may resign from the school district.
  - c. The disclosure and school board action is public record.
  - d. The official minutes of the school board shall include the school board action on each disclosure and request for authorization to derive a direct benefit from a contract. A copy of the official school board minutes shall be sent to the auditor-general and attorney general within thirty (30) days of board approval of the minutes.
  - e. No school board member may participate in or vote upon a matter in which the school board member derives a direct benefit.

## VI. MISCELLANEOUS:

1. Consequences for knowingly violating the conflict of interest laws set forth in SDCL Ch. 3-23:
  - a. It is a criminal violation for a *School Official* to knowingly violate the conflict of interest law.
  - b. A *School Official* who knowingly violated the conflict of interest law will be removed from office or employment and is disqualified from holding any public office, elective or appointive.

- c. Any benefit which a *School Official* derived from the person's knowing violation of the conflict of interest law is subject to forfeiture.
  - d. Any contract made in violation of this policy may be voided by the school board.
2. The School District Attorney represents the school district and the school board and may answer questions about the law that address conflict of interest. As the school district attorney does not represent School Officials in their individual capacity, School Officials should consult with their own private attorney related to questions they may have regarding how this policy applies to their individual interests and contracts.

Legal References: SD Constitution, Article 8, §17; SDCL 1-27; SDCL 13-20-2.1; SDCL 13-43-1; SDCL 22-30A-11; SDCL 22-30A-45; SDCL 22-30A-46; SDCL 3-1A; SDCL 3-23-1.1; SDCL 3-23-6 thru 9; SDCL 6-1-1; SDCL 6-1-17; SDCL 6-1-2

Cross References: BBF – Board Member Code of Ethics; BBFA – Board Member Conflict of Interest; GBC – Staff Ethics; GBCA – Staff Conflict of Interest

Adopted: FY2023

Last Review: FY2023

Next Review Scheduled: FY2028

<b>Arlington School District 38-1</b>	<b>NEPN Code: AH – E(1)</b>
<b>School Board Policy Reference Manual</b>	

**CONFLICT OF INTEREST DISCLOSURE AND AUTHORIZATION –  
CONFLICT OF INTEREST DISCLOSURE**

Date: \_\_\_\_\_

Name of the School Official submitting the conflict of interest disclosure:  
\_\_\_\_\_

The disclosure is for the purpose of notifying the School Board of  
 \_\_\_\_\_ an interest in a contract  
 \_\_\_\_\_ a direct benefit from a contract:

Identify the following:

- (1) all parties to the contract
- (2) the person's role in the contract
- (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

If the disclosure relates to the School Official deriving a direct benefit from a contract, explain how the terms of the contract are fair, reasonable, and not contrary to the public interest such that authorization should be granted by the school board.

Signature of School Official: \_\_\_\_\_

**THIS IS A PUBLIC DOCUMENT**

Adopted: 6/28/2016 Revised: 5/16/2017 Reviewed: 5/5/2021
--



Legal References: SD Constitution, Article 8, §17; SDCL 1-27; SDCL 13-20-2.1; SDCL 13-43-1; SDCL 22-30A-11; SDCL 22-30A-45; SDCL 22-30A-46; SDCL 3-1A; SDCL 3-23-1.1; SDCL 3-23-6 thru 9; SDCL 6-1-1; SDCL 6-1-17; SDCL 6-1-2

Cross References: BBF – Board Member Code of Ethics; BBFA – Board Member Conflict of Interest; GBC – Staff Ethics; GBCA – Staff Conflict of Interest

Adopted: FY2023

Last Review: FY2023

Next Review Scheduled: FY2028

<b>Arlington School District 38-1</b>	<b>NEPN Code: AH – E(2)</b>
<b>School Board Policy Reference Manual</b>	

**CONFLICT OF INTEREST DISCLOSURE AND AUTHORIZATION –  
SCHOOL BOARD ACTION ON CONFLICT OF INTEREST DISCLOSURE OF A DIRECT BENEFIT**

Conflict of interest disclosure of a direct benefit, dated \_\_\_\_\_, was received from \_\_\_\_\_. The disclosure was considered by the \_\_\_\_\_ School District School Board during a meeting held on \_\_\_\_\_.

\_\_\_\_\_The request for authorization was denied because the terms of the contract were determined to not be fair and reasonable, and/or were contrary to the public interest.

\_\_\_\_\_The direct benefit from the contract was authorized because the terms of the contract are fair and reasonable, and not contrary to the public interest.

\_\_\_\_\_The direct benefit 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 /Chairperson

\_\_\_\_\_

Printed Name: \_\_\_\_\_

Date \_\_\_\_\_

**THIS IS A PUBLIC DOCUMENT**

Upon School Board approval of the official minutes of the meeting when the School Board acted upon the above conflict of interest disclosure, a copy of the official minutes will be emailed to the Auditor General and mailed to the Attorney General.

Adopted: 6/28/2016  
Revised: 5/16/2017  
Reviewed: 5/5/2021

Legal References: SD Constitution, Article 8, §17; SDCL 1-27; SDCL 13-20-2.1; SDCL 13-43-1; SDCL 22-30A-11; SDCL 22-30A-45; SDCL 22-30A-46; SDCL 3-1A; SDCL 3-23-1.1; SDCL 3-23-6 thru 9; SDCL 6-1-1; SDCL 6-1-17; SDCL 6-1-2

Cross References: BBF – Board Member Code of Ethics; BBFA – Board Member Conflict of Interest; GBC – Staff Ethics; GBCA – Staff Conflict of Interest

Adopted: FY2023

Last Review: FY2023

Next Review Scheduled: FY2028