

# **KINDRED PUBLIC SCHOOL DISTRICT #2**

## **ADMINISTRATIVE MANUAL**

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### **DISCRIMINATION COMPLAINT PROCESS**

(Prohibition of discrimination, harassment and violence)

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## **I. NOTIFICATION OF TITLE VI, TITLE XI, SECTION 504 POLICIES**

YOU ARE HEREBY NOTIFIED Kindred Public School District does not discriminate on the basis of race, creed, color, national origin, sex orientation, marital status, age, or handicap in the educational programs or activities which it operates, and that it is required by Title VI, Section 504 and Part 86 of the Department of Education regulations not to discriminate in such a manner. This requirement not to discriminate extends to educational programs and activities, as well as to employment therein.

YOU ARE FURTHER NOTIFIED that inquiries concerning the application of Title VI, Section 504 and this Part may be referred to Steve Hall, who has been designated as the person responsible for coordinating the efforts of the Kindred Public School District to comply with and carry out its responsibilities under Title VI, Title IX, Section 504 and this Part, including any investigation of complaints alleging non-compliance. The office address and telephone number or our coordinator are as follows.

Steve Hall, Superintendent  
255 Dakota Street  
Kindred, ND 58051  
(701) 428-3177

## **II. EQUAL EMPLOYMENT & EDUCATIONAL OPPORTUNITIES**

YOU ARE HEREBY NOTIFIED that the Kindred Public School District No. 2 does not discriminate on the basis of race, color, national origin, sex, and handicap in the educational programs or activities which it operates, and that is required by Title VI, IX, and Section 504 of the Department of Health, Education, and Welfare regulations not to discriminate in such a manner. This requirement not to discriminate extends to educational programs and activities as well as to employment therein.

It is the intent of the Kindred Public School District to comply with both the letter and spirit of the law in making certain discrimination does not exist in its policies, regulations, and operations. Grievance procedures, for Title IX and Section 504, have been established for students, their parents and employees who feel discrimination has been shown by the Kindred Public School District. Specific complaints of alleged discrimination under Title IX (sex) and Section 504 (handicap) should be referred to the District Administrator, Kindred Public School; High School at 428-3177; Middle School at 428-3177; or Kindred Elementary School at 428-3388.

Title IX complaints can also be filled with the Office for Civil Rights:

U.S. Department of Education  
Office for Civil Rights - Chicago Office  
500 W. Madison Street Suite 1475  
Chicago, IL 60661

Tel. 312-730-1560  
Fax 312-730-1576  
TDD 312-730-1609  
E-mail OCR.Chicago@ed.gov

### **III. SUMMARY OF YOUR RIGHTS AS A PARENT/GUARDIAN**

These safeguards are guaranteed to children and their families by Public Law 94-142, The Education for All Handicapped Children Act of 1975, and Section 504 of Public Law 93-122, The Vocational Rehabilitation Act of 1973

1. You must receive written notification before the school may conduct individual testing of your children. The school has the right to go ahead with the individual testing if you do not answer any of the school's attempts to get permission for evaluation.
2. You must receive written notification of any initiation or refusal to initiate a change in your child's educational placement.
3. You have the right to present your views regarding the identification, evaluation, placement or provision of a free appropriate education to your child. This includes the right to request an educational evaluation.
4. You have the opportunity to present information from an independent educational evaluation of your child.
5. You have access to all relevant school records of your child.
6. Either you or the school may initiate an impartial due process hearing to resolve differences that could not be resolved informally. The request is filed with the ND Department of Public Instruction. In conducting such a hearing, parents must:
  - A. receive timely and specific notice of the hearing
  - B. have the right to be accompanied and advised by counsel and/or individuals with specific knowledge or training with respect to the problems of handicapped children

- C. confront, cross-examine and compel the attendance of witnesses
  - D. present evidence relevant to the decision
  - E. obtain a written or electronic verbatim record of the hearing, and obtain written findings of facts and decisions.
7. The hearing will be conducted by an impartial hearing officer selected from a list provided by the Department of Public Instruction.
  8. The decision of the hearing is binding on all parties pending appeal.
  9. Either party has the right to appeal the findings and decision of the hearing through the court system.
  10. During the above process your child shall remain in the original program or any other program to which both parties can agree.
  11. Students receiving special education and related services must receive a periodic re-evaluation every three years.
  12. These rights transfer to your child when he/she reaches the age of 18 unless a guardian has been appointed by the court. These rights would then be retained by a court appointed guardian.

#### **IV. ANNUAL NOTIFICATION REGARDING PARENTS RIGHTS OF ACCESS TO STUDENT RECORDS**

Each year parents and students need to be reminded of the student records policy of the Kindred School District. Parents of students or 18 year old students who wish to review any or all of the school records pertaining to the student should contact the building school personnel, and parents may have copies of the records for the cost of copying.

If parents or adult students believe something in the records is inaccurate or misleading, they may request that it be corrected or they may have comments added to the record. If the principal and the parent or adult student cannot agree, the latter may contact the superintendent for a hearing.

Record information will not be released to most persons or agencies without the written consent of the parents. Nonetheless, it is the policy of this district to

forward school records, without parent consent, to schools in another district to which a student transfers. This is to facilitate the prompt placement of the student in the new school. However, parents may request a copy of the record. Similarly, without parent consent, the district forwards transcripts, or other information requested by high school students, to colleges and other educational institutions to which the students are applying.

For a complete copy of the district's student record policy, contact your school principal. Students who have questions or concerns about the student record policy may direct them to the building principal, the superintendent, or the U.S. Office of Education.

Also, federal law permits a school district to identify certain information as "directory information" which may be publicly released without permission of the parents. Kindred Public Schools identify this information as the following: name, address, telephone number, date and place of birth, major field of student, participation in activities and sports, weight and height of members of athletic teams, dates of attendance, diplomas and awards received, and most recent previous school attended.

If you do NOT want this information released, please complete the form below and return within ten school days. *If we do not receive* your notice by that date, we will assume that you have no objection to the release of such information. *The District* believe that it is in the student's best interest to have such information released in school and community newspapers because of recognition it gives them. *The District* makes every reasonable effort to protect our students' privacy. For example, it is our policy not to release information to businesses for commercial purposes or to individuals without good reason. Therefore, most parents do not restrict the release of directory information.

## **V. STUDENT RECORD COLLECTION**

It is necessary for the School District to maintain extensive and sometimes personal information about pupils and their families for educational purposes. These records are kept to assist the school in offering appropriate educational experiences to the student. The interest of the student must supersede all other purposes for which records might be kept.

A permanent cumulative record shall be kept on all students from grade one through twelfth grade. This is a highly private record to be used only by the professional staff immediately concerned with the student's welfare. It shall also be made available to the student and his/her parents or guardians.

The school staff shall not permit access to or release of student records to any individual, agency or organization other than school officials within the school or officials of other schools or school systems in which the student has enrolled, except with the written consent of the parent or guardian or the student if 18 years of older.

These student records may contain, but are not limited to: identifying data, academic work completed, level of attendance date, scores on standardized intelligence, aptitude and psychological tests, interest inventory results, health data, family background information, teacher or counselor ratings and observations, and verified reports of serious or recurrent behavior patterns.

All parents shall be notified of the standardized tests prior to administration.

Parents, legal guardians, or students of legal age (18 or older), shall have an opportunity for a hearing to challenge the content of the student's school records, to ensure that the records are not inaccurate, misleading, or otherwise in violation of the privacy or other rights of students and to provide an opportunity for the correction or deletion of any such inaccurate, misleading, or otherwise inappropriate data contained therein.

Parents, legal guardians, or students of legal age shall have the right to file an appeal to have items removed from the student's folder or record. This appeal will be filed with the school principal who shall set a time and place for a private hearing and notify the request in writing of the time and place. The hearing shall be held within three weeks of the request. At the hearing, the principal shall have present the person(s) who have entered the information in question. The person who requested the hearing shall have the right to ask questions of those present and to present evidence that would correct inaccurate, misleading, or otherwise inappropriate information. The principal shall then determine whether the information in question shall be removed from the record. If the information in question is not then removed from the record, the evidence presented shall become a permanent part of the student's records.

## **VI. MAINTENANCE OF STUDENT RECORDS**

Each principal shall be responsible for record maintenance and access within his or her building. All student records when not in use shall be kept under lock and key.

Any request to examine a student's record by a parent or legal guardian of a minor student or by a student (of legal age) shall be honored. Requests by agents, when accompanied by written authorization from the parent, legal guardian or student of legal age, shall also be honored.

The file shall contain a composite of all requests for information and all completed forms involving requests, authorizations, or permission to view and receive educational records. (Each person viewing the file shall sign and date the form provided for that purpose.)

Three (3) years after graduation or three years after the termination of the provision of educational services to the student, all but the Permanent Record Card may be destroyed. The Permanent Record Card shall contain only name, address and phone number, the pupil's record of grades, years enrolled, courses attended and grades completed. The Permanent Record Card shall be retained in perpetuity.

The contents of a pupil's Special Educational Services Record shall be destroyed within five (5) years after the information is no longer needed to provide educational services to the child. Prior to destruction of such a record or data from the cumulative record which pertains to the pupils' handicapping condition, reasonable effort shall be made to notify the parents of their right to a copy of such data.

# **PROHIBITION OF DISCRIMINATION, HARASSMENT AND VIOLENCE**

## **I. GENERAL STATEMENT OF POLICY**

It is the policy of the Kindred Public School District to maintain a learning environment that is free from discrimination and harassment. The Kindred School District prohibits any form of harassment based on race, creed, color, national origin, sexual orientation, marital status, age, disability, or status in any group protected by federal or state law.

The School District will act to investigate all complaints, either formal or informal, verbal or written, of harassment and to discipline or take appropriate action against any pupil, teacher, administrator, or other school personnel who is found to have violated this policy. Procedure for filing a written complaint are outlined in Affirmative Actions policy (AAC-R)

## **II. DISCRIMINATION / HARASSMENT DEFINED**

Harassment generally includes, but is not limited to, physical contact or violence or verbal statements relating to an individual's race, color, religion, sex, sexual orientation, national origin, age, disability, or status in any group protected by federal, state or local law when the conduct:

1. Has the purpose or effect of creating an intimidating, hostile, or offensive working or academic environment;
2. Has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance; or
3. Otherwise adversely affects an individual's employment or academic opportunities.

## **III. SEXUAL DISCRIMINATION / HARASSMENT DEFINED**

Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct and violence or communication of a sexual nature when:

1. Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment, or of obtaining an education; or
2. Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment or education; or
3. That conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's employment or education, or creating an intimidating, hostile, or offensive employment or education environment.

Sexual discrimination / harassment may include but is not limited to:

1. Sex oriented verbal "kidding", abuse, or harassment;

2. Pressure (subtle or otherwise) for sexual activity;
3. Repeated remarks to a person, with sexual or demeaning implications;
4. Unwelcome touching, such as patting, pinching, or constant brushing against another's body;
5. Suggesting or demanding sexual involvement accompanied by implied or explicit threats concerning one's grades, employment status, or similar personal concerns;
6. Displaying or distributing of sexually explicit drawings, pictures, and written, materials;
7. Graffiti of a sexual nature.

#### IV. RACIAL DISCRIMINATION / HARASSMENT DEFINED

Racial harassment in public schools violates Title VI of the Civil Rights Act of 1964; sexual harassment violates Title IX of the Education Amendments of 1972. Racial discrimination / harassment is present if a person is treated differently on the basis of race, color, or national origin in the context of an educational program or activity without legitimate nondiscriminatory reason so as to interfere with or limit the ability of the person to participate in or benefit from the services, activities, or privileges provided by the recipient.

Racial discrimination / harassment may include but is not limited to:

1. Harassing conduct that is physical, verbal, graphic or written;
2. Injury to persons or property or;
3. Conduct threatening injury to person or property.

## I. REPORTING PROCEDURES

Any person who believes he or she has been the victim of discrimination and/or harassment on the basis of race, creed, color, national origin, sexual orientation, marital status, age, disability or status in any group protected by federal or state law, by a pupil, teacher, administrator or other school personnel of the Kindred School District, or any person with knowledge or belief of conduct which may constitute discrimination or harassment toward a pupil, teacher, administrator, or other school personnel should report the alleged acts immediately to an appropriate school district employee. An appropriate employee could be any support staff or certified staff member of a school building or district location. This procedure is applicable to allegations of discrimination/harassment, including staff-on-student, staff-on-staff, and student-on-student discrimination/harassment as described under Title VI, Title IX, and Section 504. The Districts Title IX and Section 504 Compliance Coordinator is Steve Hall (Superintendent, Kindred Public School, 55 1<sup>st</sup> Ave S. , Kindred, ND 58051, 428-3177). The School District encourages the reporting party or complainant to use the complaint forms available from the principal or in the office of each building or available from the school district office, but oral complaints shall be investigated as well. Nothing in this policy shall prevent any person from reporting discrimination and/or harassment directly to the Superintendent. Students and staff are encouraged to contact the Kindred Public School Central Office regarding the existence and location of services, activities, and facilities that are accessible to and usable by individuals with disabilities.

Filing of a complaint or otherwise reporting discrimination or harassment will not reflect upon the individual's status or affect future employment, work assignments, or grades. Kindred Public School District staff members are mandated to report immediately, complaints or observations of what might be harassing behavior.

The right to confidentiality, both of the complainant and of the accused, will be respected consistent with the School District's legal obligations and with the necessity to investigate allegations of discrimination or harassment and to take disciplinary action when this conduct has occurred.

A substantiated complaint against a school district staff member will subject such member to disciplinary action including possible discharge. A substantiated complaint against a student in the school district will subject that student to disciplinary action, which may include suspension or expulsion, consistent with the student disciplinary policies.

- A. In each school building, the building principal is the person responsible for receiving oral or written complaint of discrimination/harassment at the building level. Any school district employee who receives a complaint of discrimination and/or harassment shall inform the building principal. The following is a list of building names, addresses, and phone numbers. All buildings are in the (701) area code.

Kindred Elementary	55 1 <sup>st</sup> Ave S	428-3388
Kindred JH/SH	255 Dakota Street	428-3177

Upon receipt of a complaint of discrimination/harassment, the principal will request a written statement (age and cognitively appropriate is the guideline). This written statement of the alleged facts will be forwarded within 24 hours by the principal to the superintendent. If the complaint was given verbally, the principal will personally provide a written summary and forward it to the superintendent within 24 hours. If the complaint involves the building principal, the complaint will be made or filed directly with the Superintendent (mailing address: 255 Dakota Street, phone number 428-3177). A same-sex administrator will hear the complaint if requested.

- B. In the District, the Superintendent is the district's officer for the receipt of complaints of discrimination and/or harassment. If the complaint involves the Superintendent, the complaint will be filed directly with the School Board President. District Office employees, warehouse employees, administrative level employees or other staff members who are not supervised by a building principal, or another designated supervisor may file a complaint directly with the superintendent.
- C. A student or adult who believes he/she is a victim of discrimination or harassment on a school bus, or any student or adult, who witnesses such action on a school bus, will report the incident to the Transportation Director. The Director will then refer the complaint to the principal of the school the alleged victim attends if the alleged perpetrator is a bus driver or bus aide.

D. Time Limits

1. Complaints should be filed as soon as possible after the events, which constitute discrimination and or harassment, but no later than 180 days following the date of the last discriminatory act. However, Kindred Public School District staff members are mandated to report immediately, complaints or observations of what might be harassing behavior.
2. A complaint alleging an act of discrimination, harassment, or retaliation that began before the 180 day time limit may be filed if the acts are a "continuing violation."

- a. A “continuing violation” may exist if at least one of a series of closely related acts that began more than 180 days before a complaint was filed, satisfies the time limit; or pervasive, institutionalized, or systemic discriminatory practices or procedures result in at least one discriminatory act that comes within the 180 days.
  - b. Generally, the present effects or consequences of past discrimination do not constitute a continuing violation.
  - c. Court decisions interpreting Title VI, VII, IX, and other civil rights laws shall be the guide in determining whether a complaint properly alleges a continuing violation.
3. Because jurisdiction under this procedure is restricted to complaints alleging unlawful discrimination, harassment, or retaliation, complaints alleging other infractions or other types of unfair treatment will be dismissed and returned to the complainant for disposition under the appropriate grievance or complaint procedure.

## II. INVESTIGATION PROCEDURES

By the authority of the School District, the building principal, direct supervisor, or superintendent upon receipt of a report or complaint alleging discrimination and/or harassment, either verbal or written, shall immediately undertake or authorize an investigation. The investigation may be conducted by district officials or by a third party designated by the administration.

### A. Filing The Complaint Form

1. The complaint shall be signed by the complainant;
2. Shall describe in detail the specific incident(s), occurrence(s), decision(s), and other factual matters believed to constitute unlawful discrimination, harassment, or retaliation;
3. Name as the respondent(s) the individual, department, committee, or other body whom the complainant believes to have engaged in prohibited behavior; and
4. Include a brief statement describing the resolution, relief, or action requested by the complainant;
5. Someone other than the complaining party can write the complaint if necessary.

## B. Jurisdiction

1. Jurisdiction under these procedures is met when:
  - a. The allegations of the complaint meet the definition of discrimination or harassment;
  - b. The complaint was timely filed; and
  - c. The complaint has complied with Section A above.
2. The complaint shall be dismissed if the Superintendent determines that the district does not have jurisdiction over the complaint.
3. There shall be the right for either party to request the Superintendent to reconsider his decision. There is also the right to appeal the decision of the Superintendent to the school board. The complaining party may at any time pursue the matter through other state agencies or through the United States Department of Education, Office for Civil Rights.

## C. Investigation

1. The investigation, at a minimum, will consist of personal interviews with the complainant, the individual(s) against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The investigation may also consist of any other methods including retrieval and review of documents deemed pertinent by the investigator.
2. In determining whether alleged conduct constitutes a violation of this policy, the investigation should consider the surrounding circumstances, the nature of the behavior, past incidents or continuing patterns of behavior, the relationships between the parties involved, and the context in which the alleged incidents occurred. Whether a particular action or incident constitutes a violation of this policy requires a determination based on all the facts and surrounding circumstances.

3. In addition, the principal, immediate supervisor, or superintendent may take immediate steps to protect the complainant, pupils, teachers, administrators, or other school personnel pending completion of an investigation of alleged discrimination/harassment.
4. The investigation will be completed as soon as possible, but within 30 calendar days of the date the complaint was received by the principal, supervisor, or superintendent. The principal or supervisor shall make a report to the Superintendent upon completion of the investigation. If the complaint involves the Superintendent, the report may be filed directly with the School Board President.

D. Informal Resolution - A CRITICAL FIRST STEP

Because of the personal and often embarrassing disclosures concomitant to making or responding to accusations of discrimination / harassment, the district strongly encourages complainants to attempt to resolve their complaint informally (in lieu of or before commencing formal proceedings). Informal resolutions may be attempted by taking one or more of the following steps. These steps are not, however, mandatory and would be handled by the building principal or a mutually agreed upon designee. Complaints would be handled within fifteen to twenty working days or school days, whichever would apply to the circumstance. Anyone believing that he/she has been subjected to discrimination / harassment may choose instead to immediately commence formal internal complaint proceedings or to file a complaint with the appropriate state enforcement agency, or the United States Department of Education, Office For Civil Rights.

1. The first attempts at resolution should be through the process of mediation.
2. Mediation is essential to this process, and every effort shall be made to resolve the complaint in this manner.
3. The complainant and respondent may be required to attend a mediation conference.
4. At the mediation conference, the complainant and respondent will be encouraged to explain their positions to one another, clarify any misunderstandings or misconceptions, which may have played a part in the matters, complained of, and formulate a mutually acceptable resolution.

5. Mediation may begin at any time and may continue after the mediation conference until such time that a resolution is determined.
6. If the parties agree to an informal resolution, it shall be reduced to writing, signed by the parties, and forwarded to the Superintendent or his designee for approval.
7. At such time as the Superintendent or his designee determines that the complainant's remedies have been provided, or the issue has otherwise become moot, the Superintendent may dismiss the complaint.

E. Appeals

1. The Superintendent's decision is considered final. A party may request reconsideration of the decision through the Personnel Committee of the Board of Education.
2. If the party is dissatisfied with the decision concerning an employment discrimination complaint, he/she has the right to file a complaint with the Equal Employment Opportunity Enforcement agency. The school office or the district office can provide the most current address.
3. Kindred Public Schools acknowledges your right at any time to file a discrimination complaint with:

U.S. Department of Education  
Office for Civil Rights - Chicago Office  
500 W. Madison Street Suite 1475  
Chicago, IL 60661

Tel. 312-730-1560  
Fax 312-730-1576  
TDD 312-730-1609  
E-mail [OCR.Chicago@ed.gov](mailto:OCR.Chicago@ed.gov)

### III. DISCIPLINARY ACTION

Upon receipt of an investigation report which indicates that the complaint is valid, the Superintendent shall determine the appropriate disciplinary action if the individual(s) against whom the complaint is filed is an employee. Disciplinary action shall be appropriate to the severity of the discrimination/harassment and may include warning, referral of an employee to the Employee Assistance Program, suspension, or discharge.

If a substantiated complaint is filed against a student, the building principal shall determine the appropriate disciplinary action. Parents shall be notified consistent with policies dealing with discipline and due process procedures. Disciplinary action shall be appropriate to the severity of the discrimination/harassment and may include warning, suspension, or expulsion.

The results of the investigation and the disciplinary action taken will be reported in writing to the complainant by the principal within ten working days following the receipt of the investigation report, which validated the complaint.

### IV. RETALIATION

The School District will discipline any individual who retaliates or takes adverse action against any person who reports alleged discrimination/harassment or who testifies, assists, or participates in an investigation relating to a complaint of discrimination/harassment. The complainant or the individual(s) against whom the complaint is filed may appeal to the Superintendent of Schools if he or she believes they have not received fair treatment under this policy.

### V. PREVENTION

It is important that all students and employees understand what constitutes discrimination and harassment and their right to report unwelcome behavior. Supervisors should educate those within their building regarding this policy and should be watchful for behavior, which fits the description of discrimination or harassment. Employees who witness such behavior as a third party have a responsibility to report it.

## VI. NON-DISCRIMINATION/NON-HARASSMENT

The school district recognizes that not every advance or communication based on race, color, religion, sex, sexual orientation, national origin, disability, age or status in any group protected by federal or state law constitutes discrimination or harassment. Whether a particular action or incident is a personal, social relationship without a discriminatory/harassing employment or classroom learning effect requires a determination based on all the facts and surrounding totality of circumstances. False accusations of discrimination and/or harassment can have a serious detrimental effect on innocent parties and may result in disciplinary action.

## VII. EMPLOYEE ASSISTANCE PROGRAM

For persons employed by the school system who are involved in a harassment accusation or incident of discrimination/harassment, the Kindred School District provides the Employee Assistance Program (EAP). The intent of this program in this case would be to help the employee deal with the psychological effects of being involved in the process.

8-1-09

## **KINDRED PUBLIC SCHOOL DISTRICT #2 POLICIES**

- Harassment (Policy AAC-BR; ACC-E)
- Sexual Harassment (Policy AAC-BR; ACC-E)
- Nondiscrimination (Policy AAC-BR; ACC-E)
- Teacher Grievances Procedure (Policy DGA)
- Patron Complaints (Policy BIB)
- Patron Complaint Form (Policy BIBA-E)
- Patron Complaints About Personnel (Policy BIBA)

## **Kindred Public School District #2 Policy Development Procedures (BDA)**